



**CITY COUNCIL MEETING AGENDA
TUESDAY, MARCH 07, 2023
HELD REMOTELY & IN PERSON AT CITY HALL
124 S. LEFEVRE ST.**

- Sign up to provide Public Comment at the meeting via calling in
- Submit Written Public Comment Before 4 pm on (March 07, 2023) - *SEE NOTE*
- Join the Zoom Meeting –
<https://us06web.zoom.us/j/87847806182?pwd=UEdjbWNmY0xJM3pJRU94ck1jSWczZz09>

Meeting ID: 878 4780 6182

Passcode: 610600

WRITTEN PUBLIC COMMENTS

If you wish to provide written public comments for the council meeting, please email your comments to sweathers@medical-lake.org by 4:00 p.m. the day of the council meeting and include all the following information with your comments:

1. The Meeting Date
2. Your First and Last Name
3. If you are a Medical Lake resident
4. The Agenda Item(s) which you are speaking about

*Note – If providing written comments, the comments received will be acknowledged during the public meeting, but not read. All written comments received by 4:00 p.m. will be provided to the mayor and city council members in advance of the meeting.

Questions or Need Assistance? Please contact City Hall at 509-565-5000

REGULAR SESSION – 6:30 PM

- 1. CALL TO ORDER, PLEDGE OF ALLEGIANCE, ROLL CALL**
- 2. AGENDA APPROVAL**
- 3. INTERESTED CITIZENS: AUDIENCE REQUESTS AND COMMENTS**
- 4. ANNOUNCEMENTS / PROCLAMATIONS / SPECIAL PRESENTATIONS**
- 5. REPORTS**
 - A. Council Comments
 - B. Mayor
 - C. City Administrator & City Staff
- 6. WORKSHOP DISCUSSION**
 - A. Establish a Salary Commission to review Mayor and City Council pay and benefits
 - B. Asset Management Policy
- 7. EXECUTIVE SESSION – None scheduled.**
- 8. ACTION ITEMS**
 - A. Consent Agenda
 - i. Approve **February 21, 2023**, minutes
 - ii. Approve **March 7, 2023**, Claim Warrants **42219** through **42249** in the amount of **\$297,163.10**.
- 9. RESOLUTIONS**
 - A. 23-577 E & H Engineering Master Agreement
 - B. 23-578 Mnati Consulting Retainer Contract
 - C. 23-579 TransAlta Grant Agreement
- 10. PUBLIC HEARING – No items listed.**
- 11. ORDINANCES**
 - A. Second Read - 1108 Critical Areas Ordinance
- 12. EMERGENCY ORDINANCES – No items listed.**
- 13. UPCOMING AGENDA ITEMS**
- 14. INTERESTED CITIZENS**
- 15. CONCLUSION**

City of Medical Lake

POLICY & PROCEDURES

Asset Management

Financial Policy 14.101

Policy Purpose

This policy is established to provide guidelines that will ensure good stewardship over City resources through a uniform method of accountability and inventory of the assets of the City.

Definitions

- **Capital Assets** – Assets that intended to be held or used for the long-term. Examples: land, buildings, artwork, improvements, machinery, and equipment.
- **Infrastructure** – The City’s public works system. Similar definition to Capital Assets, but refers to the City’s streets, roads, bridges, curbs, sidewalks, water lines, sewer lines, etc.
- **Capitalization Threshold** – the limit for which capital assets are defined. Below the capitalization threshold, purchases are considered operating costs. Above the capitalization threshold, purchases are considered capital assets, to be recorded and inventoried according to the following Federal, State and Local capital asset requirements detailed in this policy.
- **Small and Attractive Assets** – Items that are below the City’s capitalization threshold but possess a heightened risk of theft or misuse. These items are to be identified and treated according to all requirements described in this policy.
- **Inventory Control Officer** – Personnel designated by the department head to maintain and safeguard the department’s capital assets and small and attractive assets.

Capitalization Threshold

Asset Class	Threshold (\$)
Land	0
Buildings, Building Improvements, and Building Fixtures	5,000
Improvements Other Than Buildings	5,000
Infrastructure	5,000
Machinery and Equipment	5,000
Construction-In-Progress	5,000
Intangible Assets	5,000

1. The threshold for assets purchased with grant funds will be superseded by the thresholds and requirements contained in the related grant agreement.

Small And Attractive Assets

Assets that meet the definition and criteria below are not considered capital assets but must be handled with additional controls due to the heightened risk of theft or misuse associated with them.

1. **Items Thresholds** – items with a cost equal to or higher than the assigned threshold will be classified as a small and attractive asset:
 - a. \$300 – Laptops, notebook computers, tablets, and smart phones.
 - b. \$1000 - communications equipment, optical devices, cameras and photographic equipment, microcomputer systems, laptop and notebook computers, data-processing accessory equipment and components (scanners, data displays, etc.), stereos, radios, television sets, tape recorders, and shop equipment (power tools, scaffolding, ladders, etc.).
2. **Identification** – The list shall contain the serial number, model, or other identifying information. Whenever feasible, each piece of property will be engraved or marked with the City’s name or logo. Such markings will be removed or obliterated only when the item is sold, scrapped, or otherwise disposed of.
3. **Accounting** – Items shall be expensed and purchased from a BARS account titled “small tools & equipment” and will utilize the (35) BARS object code.
4. **Excluded item types** – Semi-permanent fixtures (desks, tables, shelving, filing cabinets, etc.), minor equipment (shovels, wrenches, hand tools, staplers, etc.), consumable items (asphalt, paper, water, etc.), and assets that are used as an accessory for a larger capital asset (vehicle attachments, parts for repair, etc.) will not be classified as small and attractive assets.

Responsibility and Accountability

1. **Applicability** – This policy applies to all department of the City of Medical Lake.
2. **Department Inventory Control Officer** – Departments are responsible for protecting and controlling the use of City assets assigned to their department. The department head must designate one or more Inventory Control Officers to be responsible for maintaining and safeguarding the department’s capital assets and small attractive assets. The department head will notify the Finance Director when they assign or re-assign an employee to be the department Inventory Control Officer and the Finance Director will maintain a list of all current Inventory Control Officers.
3. **Documentation** - Any time a capital asset is purchased, surplus, sold, or transferred to another department, the Department Inventory Control Officer will complete a Capital Asset Record form (Attachment A) or a Small and Attractive Assets form (Attachment B), which will be submitted to the Finance Director with the related documentation. The Finance Director will maintain a list of all capital assets.
4. **Inventory** – a physical inventory will be conducted at least once every year. By January 31st of each year, the Finance Director will supply each department with an inventory worksheet of all capital assets under their control as of December 31st of the prior year. Each department will conduct a physical inventory of the items, verifying the existence and condition of each item on the worksheet, and making note of any additions, deletions, interdepartmental transfers, modifications, or leases of property that are not on the list. The final list will be reviewed and signed by the department head and returned to the Finance Director by February 28th of every year. The date the inventory is conducted should be noted. Departments are encouraged to exchange and use personnel from other departments to perform their inventory if possible.
5. **Inventory Reconciliation** – Throughout the inventory process, the Inventory Control Officer will note any assets that could not be located, discrepancies in the documented inventory information or assets that are not located on the inventory list. For assets that cannot be located, see Lost and Stolen Assets below. Once all discrepancies are identified, the Finance Director will update the capital asset system as necessary.

Procedures

1. Additions

- a. The City may acquire property via purchase, construction, donation, or lease. Capital Assets shall be purchased using the (60) BARS object code.
- b. When a capital asset is purchased, the department will send a copy of the invoice to the Finance Director for payment. The Finance Director will identify those assets that meet the capitalization threshold requirements, assign a unique inventory control number via asset tag, and prepare a Capital Asset Record (Attachment A) to be sent to the department to be completed.
- c. When the department receives the asset tag and Capital Asset Record, they will immediately affix the tag and return the completed form to the Finance Director.
- d. Finance will then update the capital asset system with the information from the Capital Asset Record.
- e. Departments may decide where to affix the asset tag, which should be located on the principal body of the asset, rather than a removable part. The asset tag will be removed or obliterated only when the item is sold, scrapped, or otherwise disposed of.
- f. Should the inventory tag be removed or defaced, the item shall be assigned a new asset tag, and the new number recorded in the capital asset system.
- g. Assets do not require an asset tag if they:
 - i. Are stationary in nature and not susceptible to theft (land, infrastructure, buildings, improvements other than buildings, and leasehold improvements);
 - ii. Have a unique, permanent serial number that can be used for identification, security, and inventory control (vehicles);
 - iii. Would lose significant historical value or resale value by being tagged; or
 - iv. Would have its warranty negatively impacted by being permanently marked.
- h. If an asset is not required to be tagged, the department must apply alternative procedures to inventory and identify such assets.

2. **Deletions** - Capital Asset deletion from the capital asset system may be required due to the sale of the asset, scrapping, lost or stolen items, or involuntary conversion (fire, flood, etc.). Due to the monetary value, capital assets deleted from the capital asset system for any reason requires authorization from the City Council.

3. Disposal

- a. Disposal may occur only after being declared surplus by the City Council. Disposal will be made in whichever manner is determined to be most cost effective for the City. This may be sale, disposal, conversion, or any other means approved by the City Council in the surplus declaration by resolution.
- b. Disposition will be initiated by the department responsible for the asset using the Asset Disposition Form (Attachment C), which will be turned in to the Finance Director. The Finance Director or designee will prepare a surplus declaration resolution for City Council approval.
- c. When original or replacement equipment acquired under a grant or sub grant is no longer needed for the original project or program, disposition of the equipment will be made as follows:
 - i. Items or equipment with a current per-unit fair market value of less than \$5,000 may be retained, sold, or otherwise disposed of with no further obligation to the awarding agency.
 - ii. Items or equipment with a current per-unit fair market value of \$5,000 or more may be retained, sold, or otherwise disposed of only as authorized by the awarding agency.
- d. In the event the City is provided federally owned equipment
 - i. Title will remain vested in the federal government.

- ii. The City will manage the equipment in accordance with federal agency rules and procedures and submit an annual inventory listing.
 - iii. When the equipment is no longer needed, the City will request disposition instructions from the federal agency
- 4. **Transfers** – Occasional transfers of property between departments, individuals within a department or funds may occur. The original controlling department is accountable for all assets in its inventory and for initiating a notice of transfer by using the Asset Disposition Form (Attachment C). Interdepartmental transfers involving a proprietary fund (Water, Wastewater, etc.) require a transfer of money. The sale price will be fair market value, which may result in a gain or loss on sale of capital assets.
- 5. **Lost or Stolen Assets**
 - a. When suspected or known losses of capital assets or small and attractive assets occur, departments should conduct a search for the missing property. The search should include transfers to other departments, storage, scrapping, conversion to another asset, etc.
 - b. If the missing property is not found:
 - i. Notify the Inventory Control Officer and department head.
 - ii. Report lost or stolen items to the local police jurisdiction. A police report must be filed.
 - iii. Have the individual deemed to be primarily responsible for the asset, as well as that individual's supervisor, complete and sign a statement to include a description of the events surrounding the disappearance of the property, who was notified of the loss, and steps taken to locate the property.
 - iv. The department head responsible for the missing asset will notify the Finance Director, submit a copy of the police report, and complete and sign a Capital Asset Disposition form (Attachment C) when it is determined that the asset has been lost or stolen and unsuccessfully recovered.
 - v. Finance will report known or suspected losses of assets to the State Auditor's office in accordance with RCW 43.09.185, and a copy of the report will be provided to the Mayor, City Administrator, and City Council.
 - vi. Finance will remove the lost or stolen property from the department's inventory and asset database.



Capital Asset Record

Asset Number

Leave unrelated sections blank

Asset Description: _____

Make: _____ Model: _____

Serial Number: _____

Department: _____ Workstation: _____

Purchased Constructed Donated Leased

Purchase date: _____ Check No.: _____ Asset Cost: _____

Useful Life: _____ Condition: _____

Salvage Value _____

BARS Number	Amount

Vendor: _____

Warranty & Mechanical Information:

Add-ons: _____

Grant: _____

I _____ have attached Asset Tag # _____ to the item listed above.

Signature: _____ Date: _____



Small & Attractive Asset Record

Tag Number

Asset Description: _____

Make: _____ Model: _____

Serial Number: _____

Department: _____ Workstation: _____

Purchased Construction Donated Leased

Purchase date: _____ Check No.: _____ Asset Cost: _____

Useful Life: _____ Condition: _____

Salvage Value _____

BARS Number	Amount

Vendor: _____

Warranty & Mechanical Information:

Add-ons: _____

Grant: _____

I _____ have attached Asset Tag # _____ to the item listed above.

Signature: _____ Date: _____



Asset Disposition Form

Capital Asset

Small & Attractive Asset

Type of Disposition:

Surplus Trade-in Transfer to – Department: _____
Lost or Stolen Donation Destroyed

Details / Reason for disposition

Asset Description: _____

Make: _____ Model: _____

Serial Number: _____

Department: _____ Workstation: _____

Number of like items (if more than on): _____

Condition: Excellent Good Poor

Current Estimated Value: _____

Vehicles Only: Year: _____ Mileage: _____

VIN: _____

Purchased with grant funds?: Yes No Granting Agency: _____

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Department Head Signature

Date

CITY OF MEDICAL LAKE
City Council Regular Meeting

6:30 PM
February 21, 2023

MINUTES

Council Chambers
124 S. Lefevre Street

NOTE: This is not a verbatim transcript. Minutes contain only a summary of the discussion. A recording of the meeting is on file and available from City Hall.

COUNCIL AND ADMINISTRATIVE PERSONNEL PRESENT

Councilmembers

Don Kennedy
Chad Pritchard
Art Kulibert (via Zoom)
Heather Starr
Tony Harbolt
Bob Maxwell

Administration/Staff

Terri Cooper, Mayor
Sonny Weathers, City Administrator
Roxanne Wright, Admin. Assistant
Sean King, City Attorney
Scott Duncan, Public Works Director
Elisa Rodriguez, City Planner
Steve Cooper, WWTP Director

1. CALL TO ORDER, PLEDGE OF ALLEGIANCE, ROLL CALL

- A. Mayor Cooper called the meeting to order at 6:34 pm, led the pledge of allegiance, and conducted roll call. Position #2 is vacant, councilmember Kulibert was present on Zoom, councilmembers Pritchard, Starr, Kennedy, Harbolt, and Maxwell were all present in person.

2. AGENDA APPROVAL

- A. Motion made by councilmember Kennedy, seconded by councilmember Harbolt, to strike agenda item 1A as it was inadvertently left on the agenda from the last council meeting and councilmember Kennedy is present. Motion carried 6-0.
- B. Motion to approve agenda as amended made by councilmember Starr, seconded by councilmember Kennedy, carried 6-0.

3. INTERESTED CITIZENS: AUDIENCE REQUESTS AND COMMENTS

- A. Tammy Roberson 424 S Brooks – shared comments on the proposed Critical Areas Ordinance. See attached.
- B. Mike Bauman N Stanley – Shared concerns over increased speeding on Stanley Street. Suggested placing the mobile radar units in a more permanent placement.

4. ANNOUNCEMENTS / PROCLAMATIONS / SPECIAL PRESENTATIONS

- A. Councilmember Harbolt submitted a request for absence from the March 7, 2023, council meeting. Motion to approve made by councilmember Kennedy, seconded by councilmember Maxwell, carried 5-0 with councilmember Harbolt abstaining.

5. REPORTS

A. City Council & Council Committee Reports

- i. Finance Committee – Councilmember Starr shared that the committee reviewed claims and warrants. Other topics of conversation will be covered throughout the remainder of this meeting.
- ii. Public Safety Committee – Councilmember Maxwell was chosen as committee chair. Shared update from SCSO that seven vehicle thefts occurred in Medical Lake last year. Reminded citizens to lock cars and not leave valuables in them to deter theft.
- iii. General Government Committee – Mayor Cooper shared that the meeting time for this committee will change due to a conflict with another committee meeting. Councilmember Pritchard shared that they discussed voting in a committee chair, Public Works equipment procurement, and the upcoming complete streets workshop. Reported that the city wells are looking good. Congratulated Steve Cooper, WWTP director, on procuring the solar array grant.

B. Council Comments

- i. Councilmember Pritchard – Attended the Housing and Community Development Advisory Committee (HCDAC) meeting and reported that Medical Lake will be recommended for some funding. Shared that the next Medical Lake Geo walk will be Saturday, April 11, 2023, beginning at noon. Shared that the Medical Lake School District STEM night will be on May 3, 2023, 6-7:30 pm at Medical Lake Middle School.
- ii. Councilmember Starr – no report
- iii. Councilmember Kennedy – Reported on the Spokane Transit Authority (STA) meeting last week. Updated on City line bus stops. It will be the first rapid transit in eastern Washington. Ridership for STA was up 14% in 2022.
- iv. Councilmember Maxwell – no report
- v. Councilmember Kulibert – Reported that there are some advance tickets available through the Blue Waters website, for the Bluegrass Festival in August.
- vi. Councilmember Harbolt – Shared that he was glad to be back in person.
- vii. Mayor Cooper – Shared that Re*Imagine Medical Lake is rolling out a brand-new website with Founder’s Day information. Shared that Ptera is rolling out fixed wireless. Citizens can go to the Ptera website, select services, and under “coming soon to Medical Lake” they can put in their address to check eligibility for connection. Shared that credit card payments are now accepted at the front counter of City Hall. Reported that there are four applicants for the Parks and Recreation Director position and there will be an interview next week for the Code Enforcement position.

C. City Administrator & City Staff

- i. Public Safety Update (SCSO & FD3)
 - 1. Chief Rohrbach FD3 – Reported that the January call volume was 67 which is high normal. Overall response time is right around seven minutes for Medical Lake.

Shared that they received a grant for self-contained breathing apparatus and training on them is in progress.

2. Lt. Gladden SCSO – followed up on crime statistics and how they are delivered to the city. Responded to the previous citizen complaint of speeding. Shared that when reporting the speeding to them, it is helpful to have time of day, day of the week, etc. Citizens can call into Crime Check with that information.
- ii. Sonny Weathers, City Administrator
 1. Attended Commute Trip Reduction Champion Awards. Shared information about the program.
 - a. Mayor Cooper presented city staff member, Marilyn Eaker, with a Silver Employee Champion Award and the Bronze Jurisdiction Award from Commute Trip Reduction Program.
 - i. Ms. Eaker shared her desire to research the possibility of scooters for employee use.
 2. Shared about the solar array grant and the project that it will fund.

6. WORKSHOP DISCUSSION

A. Mnati Consulting Retainer Contract

- i. Mayor Cooper shared information regarding the grant writing consultant and the process used. Discussion held regarding compensation. Mayor Cooper asked the council to decide on a starting retainer fee to present to Ms. Mnati.
 1. Motion to set retainer fee at \$2500 made by councilmember Pritchard, seconded by councilmember Starr, then after further council discussion, councilmember Pritchard retracted his motion. Motion to increase the amount to \$5000 made by councilmember Maxwell, seconded by councilmember Pritchard, carried 6-0.
 2. Mayor Cooper stated that the contract will be brought forward at the next meeting.

B. City Council Appointment, Position 2 Candidate Interviews

- i. Mayor Cooper welcomed the three candidates and explained the process for the interviews and selection.
- ii. Candidate Lance Speirs – introduced himself and shared some personal information and reasons for desiring to serve on council.
 1. Councilmembers questions
- iii. Candidate Kelli Shaffer – introduced herself, shared some personal information and reasons for desiring to serve on council.
 1. Councilmember questions
- iv. Candidate Ted Olson – introduced himself, shared some personal information and his reasons for desiring to serve on council.
 1. Councilmember questions

7. EXECUTIVE SESSION – Scheduled per RCW 42.30.110(h) (City Council candidate(s) qualifications)

- A. Mayor Cooper excused council at 7:42 pm for a twenty-minute executive session to discuss candidates. Returned at 8 pm and meeting resumed.

8. ACTION ITEMS

- A. Nomination and Selection of City Council Appointment, Position 2

- i. Motion to nominate Kelli Shaffer made by councilmember Starr, seconded by councilmember Pritchard. Vote of 2-4 with councilmembers Kennedy, Maxwell, Kulibert, and Harbolt voting nay, motion failed.
 - ii. Motion to nominate Ted Olson made by councilmember Kennedy, seconded by councilmember Maxwell. Vote of 3-3, with councilmembers Pritchard, Starr, and Harbolt voting nay leaving Mayor Cooper as the tie-breaking vote. Motion carried 4-3 and Ted Olson will take council position 2.
 - iii. Mayor Cooper explained to other candidates how to register for council elections happening this year.
 - B. Consent Agenda
 - i. Approve **February 7, 2023**, minutes.
 - 1. Motion to approve made by councilmember Kennedy, seconded by councilmember Pritchard, carried 5-1, with councilmember Kulibert not voting (see below). Motion to approve as amended made by councilmember Kennedy, seconded by councilmember Maxwell, carried 6-0.
 - a. At this point, councilmember Kulibert suggested a correction to show that the answer to one of his questions at the previous meeting was no (section 10.C.i. in the minutes). Since it was noted in the minutes that research would be done and answers provided at the next meeting, no correction is needed and therefore, not made. Legal counsel addressed the questions and provided the answers later in this meeting in section 11.A.iii.
 - ii. Approve **February 21, 2023**, Claim Warrants **42167** through **42218** in the amount of **\$135,703.77**, Payroll Claim Warrants **42158** through **42166**, and Payroll Payable Warrants **20186** through **20190** in the amount of **\$139,360.07**.
 - 1. Finance Committee reviewed and approved. Motion to approve made by councilmember Starr, seconded by councilmember Kennedy, carried 6-0.

9. RESOLUTIONS

- A. 23-573 Consortium Agreement with Spokane Testing Solutions
 - i. Public Works Director, Scott Duncan, explained the need for the agreement. Motion to approve made by councilmember Pritchard, seconded by councilmember Kennedy, carried 6-0.
- B. 23-574 EFT Policy
 - i. Mr. Weathers explained the basics of the policy. Motion to approve made by councilmember Kennedy, seconded by councilmember Maxwell, carried 6-0.
- C. 23-575 Lake Street ADA Upgrades Prospectus and Local Agency Agreement
 - i. Mr. Duncan explained the agreement. Motion to approve made by councilmember Pritchard, seconded by councilmember Maxwell, carried 6-0.
- D. 23-576 E & H Engineering Consultant Agreement for Lefevre Street Lane Restriping and Sidewalks
 - i. Mr. Duncan explained the agreement. Motion to approve made by councilmember Kennedy, seconded by councilmember Pritchard, carried 6-0.

10. PUBLIC HEARING / APPEALS – No items listed.

11. ORDINANCES

- A. First Read - 1108 Critical Areas Ordinance
 - i. Legal Counsel, Sean King, read the ordinance.
 - ii. Mr. Weathers shared information regarding critical areas and Medical Lake's current ordinance and required update.
 - iii. Mr. King addressed some of the concerns that had been brought up at previous meetings. Answered councilmember Kulibert's questions from the previous meeting. Specifically, "If the city denies building due to critical areas, is the city then required to purchase the land? Can the High School continue using the soccer field if it is designated wetland? Mr. King said the answer is no to both questions and elaborated on the reasons. Additional discussion continued.
 - iv. Elisa Rodriguez, City Planner – shared information regarding the approval process of the current CAO versus the proposed CAO.
 - 1. Suggested an amendment to section 17.10.040 Approval Process (see attached).
 - a. Motion to add the suggested change made by councilmember Kennedy, seconded by councilmember Harbolt, carried 6-0.
 - v. Mayor Cooper addressed council and shared thoughts on CAO. Provided the following suggested grammatical corrections:
 - 1. 17.10.020(B)(5) - add a period at end of first sentence.
 - 2. 17.10.040(A)(16) – change first "of" to "to" and the second "of" to "in".
 - 3. 17.10.040(A)(17)- delete "the" in the second sentence where it states, "for the recording".
 - 4. 17.10.040(F) – should be Section E not F. Also correct to reflect "appeals is in subsection 16" not 15 as it currently reads.
 - 5. 17.10.050(F)(1)(f) - change the word "irrelevant" to "not applicable".
 - 6. 17.10.070(B)(2)(c) - references 17.10.030(C)(3)(c), however, there is no such section. Strike (c), so that subsection (d) will become (c).
 - 7. 17.10.100(B)(6) – include a semi-colon after "feasible".
 - 8. 17.10.110 after (6), add a period.
 - 9. 17.10.120(A) - strike "wetland" and replace with "critical area".
 - 10. 17.10.120(C) - strike the number "1", and the double period, and correct indention.
 - 11. 17.10.120 – in the second to last sentence, strike reference to "subsection A" and replace with "this section". Sentence would then read "subject to enforcement under this section."
 - a. Motion to accept above corrections made by councilmember Kennedy, seconded by councilmember Maxwell, carried 6-0.
 - vi. Motion to approve first read as amended made by councilmember Kennedy, seconded by councilmember Maxwell, carried 6-0.

12. EMERGENCY ORDINANCES – No items listed.

13. UPCOMING AGENDA ITEMS

- A. Asset Management workshop

14. INTERESTED CITIZENS: AUDIENCE REQUESTS AND COMMENTS

- A. Tammy Roberson 424 W Brooks – shared final comments on CAO. See attached.
- B. Nora Vralsted-Thomas 1006 N Stanley – expressed support for Ms. Roberson's proposed amendments.

15. CONCLUSION

- A. Motion to conclude meeting made by councilmember Pritchard, seconded by councilmember Maxwell. Motion carried 6-0 and meeting concluded at 8:58 pm.

Terri Cooper, Mayor

Koss Ronholt, Finance Director/City Clerk

DRAFT

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February 17, 2023

*Admitted in Washington and Idaho

www.spokelaw.com

RE: SECOND SET OF PROPOSED AMENDMENTS TO THE 2023 CRITICAL
AREAS ORDINANCE SUBMITTED BY TAMMY M. ROBERSON

February 2, 2023

Dear Members of the City Council:

My name is Trevor Matthews, and I represent Tammy M. Roberson, a citizen of Medical Lake. I am, once again, writing on her behalf about the City's proposal to update the Medical Lake Critical Areas Ordinance ("CAO"). As you may recall, I sent comments on February 2, 2023 making suggestions for amendments to the proposal. Because the Council has wisely elected to devote extra time and consideration to the CAO before putting it to vote, Ms. Roberson has asked me to submit several more proposed amendments on her behalf.

Ms. Roberson's goal in submitting these amendments is to strengthen and clarify portions of the CAO that deal with wetland delineation and enforcement. These amendments attempt to make it clear that the City has direct power to enforce the CAO and that wetland delineation is a scientific process that should defer to experts. The other proposed amendments attempt to address small weaknesses and ambiguities in the draft CAO without making sweeping changes to its meaning and effect.

Amendment # 5: Ensure that the City Has Sufficient Enforcement Authority.

Delete Section 17.10.120(D) and replace Section 17.10.120(A) with the following text:

- "1. General. No activity requiring a critical area permit shall be conducted without full compliance with this Chapter. Those activities not specifically authorized are prohibited. When a wetland or its buffer has been altered in violation of this Chapter, all ongoing development work shall stop and the critical area shall be restored.

The City shall have the authority to issue a “stop-work” order to cease all ongoing development work and order restoration, rehabilitation, or replacement measures at the owner’s or other responsible party’s expense to compensate for violation of this Chapter.

2. Inspections. The City or its authorized representative is authorized to make such inspections and take such actions as may be required to enforce the provisions of this Chapter.
3. Right of Entry.
 - a. Whenever necessary to make an inspection to enforce any of the provisions of this Chapter, or whenever the City or its authorized representative has reasonable cause to believe that there exists upon any premises any condition which violated the provisions of this Chapter, the City or its authorized representative may enter such premises at all reasonable times to inspect the same or perform any duty imposed upon him/her by this Chapter, provided that:
 - i. If such premises are occupied, he/she shall first present proper credentials and demand entry; and
 - ii. If such premises are unoccupied, he/she shall first make a reasonable effort to locate the owner or other persons having charge or control of the premises and demand entry. If such entry is refused, the City or its authorized representative shall have recourse to every remedy provided by law to secure entry.
 - b. No owner or occupant or any other person having charge, care or control of any premises shall fail or neglect, after proper demand is made as herein provided, to promptly permit entry herein by the City or its authorized representative for the purpose of inspection and examination pursuant to this Chapter. Any person violating this Subsection is guilty of a misdemeanor.
4. Violation.
 - a. Penalties for violations of this Section may be imposed administratively and appealed pursuant to Section 2.80.060(2) of this code.

- b. Notice of penalties – If the City or its authorized representative finds that a violation of this Chapter exists, he/she shall cause to be served, either personally or by certified mail, with return receipt requested, upon all persons having any interest in the property where the violative condition exists, as shown upon the records of the Spokane County Auditor's Office, and shall post in a conspicuous place on such property, a complaint stating the specifics of the violation. If the whereabouts of such persons are unknown and the same cannot be ascertained by the City or its representative in the exercise of reasonable diligence, and the City makes an affidavit to that effect, then the serving of such notice or order upon such persons may be made by publishing the same once each week for two consecutive weeks in a legal newspaper of general circulation in the City. Such complaint shall contain a notice that the violator may request a hearing before the hearing examiner within 21 days of mailing, service or publication of the notice. All parties in interest shall be given the right to file an answer to the notice, and to appear in person, or otherwise, and to give testimony at the time of a hearing before the hearing examiner. Penalties shall become final if the time for appeal expires without action by the violator. All costs, fees and expenses in connection with enforcement of such actions may be recovered as damages against the violator.
- 5. Remedies Available. In the event of violation, the City or its hearing examiner shall have the authority to levy fines, order restoration, rehabilitation or creation of measures to compensate for the destroyed or degraded critical area. If work is not completed in a reasonable time following the order, the City may, to the extent of monies available through bonds and/or fines, implement a process to restore the affected site or create new wetlands to offset loss as a result of violation in accordance with this code. The violator shall be liable for the cost of such action.
- 6. Violation—Misdemeanor. Any person, firm or corporation who violates any provisions of this Chapter or who fails, refuses or neglects to comply with the terms of a final order issued under this

Section within the time provided in such final order, is guilty of a misdemeanor.”

Comment:

A law is only as strong as its enforcement provisions. Without enforcement powers, there is no law because there is no deterrent to violation. The presently effective version of the City Code, contains relatively robust, if flawed, enforcement provisions. It allows the City to stop work, levy fines and order restoration of critical areas. By contrast, the proposed CAO is short on detail and gives the City less enforcement authority. This proposed amendment attempts to adapt those provisions to make clear that the City has direct authority to enforce the CAO against violators. The previous enforcement provisions were somewhat cumbersome, always requiring a public hearing before any enforcement could be implemented. This revision of those provisions allows the City to act more quickly by imposing penalties administratively but protects the rights of landowners by allowing immediate appeal of administrative enforcement to the hearing examiner.

Amendment # 6: Ensure Experts Determine Wetland Boundaries.

Amend Section 17.10.020(G) to read:

“Interpretation of Critical Area Boundaries. Determining the exact location of the boundary occurs only through a delineation process performed during the site investigation associated with the development. The planning official shall be authorized to reject, but not replace, a qualified professional’s proposed location of the mapped critical area boundary. Final designations must be based on the best available science, site conditions and other available data or information.”

Comment:

City officials should have oversight duties, but not final authority to declare the extent of a wetland boundary. Because City officials are not experts, they are not qualified to interpose their judgment for that of a qualified professional submitting a report.

Amendment # 7: Make it Clear that Buffer Averaging Must Improve Wetland Protection.”

Amend 17.10.020(F)(2)(h) to include clause v. which reads:

“v. buffer averaging will result in an improvement to overall wetland protection.”

Comment:

This recommendation comes directly from guidance published by the Department of Ecology. It is contained in WETLAND GUIDANCE FOR CAO UPDATES, EASTERN WASHINGTON VERSION, 2016 at page 31. Including this provision is valuable because buffer averaging is not intended to be a

loophole to make projects easier. It is designed to allow development while increasing wetland functions for the benefit of the City and its citizens.

Amendment # 8: Allow Front Yard Size to Decrease to Facilitate Buffer Size.

Amend 17.10.090(F)(2) to include a new subparagraph "j." which reads:

"j. In order to accommodate for the required buffer zone, the City may reduce the front yard setback requirements on individual lots on a case-by-case basis. The front or rear yard shall not be reduced by more than fifty percent."

Comment:

This provision is in the original code but has been excluded from the new draft. The provision is good because it allows buildings to be located closer to the front of a property to allow for a larger buffer. This provision makes it easier to protect wetlands while still allowing for development. This provision is likely to reduce the risk of takings lawsuits from landowners.

Comment Regarding Other Types of Critical Areas:

According to the Medical Lake 2019 Comprehensive Plan: "The Washington State Growth Management Act requires that all towns, cities, and counties adopt development regulations to protect critical areas and resource lands." (Page 93). The City has a variety of protectable critical areas and natural resource lands in its boundaries, but the present CAO only deals with a fraction of them.

In the presently effective code, Sections 17.10.070, .080, .090, .100 are all marked, "[Section reserved/No applicability.]" The draft CAO does nothing new to address these other important environmental resources in Medical Lake. For example, Page 104 of the Comprehensive Plan indicates that Medical Lake has an "aquifer recharge area" within its boundaries, but the CAO does nothing to address protection of that critical area. In addition, Ms. Roberson has recently determined that Medical Lake has protectable Forestland within its boundaries.

The Comprehensive Plan states that the Growth Management Act requires the City to protect these other sensitive areas (e.g. geologically hazardous areas, aquifer recharge area, forestland land, etc.). The City Council should work diligently to ensure that the Draft CAO is just the beginning of Medical Lake's efforts to protect the environment. Once the CAO is properly amended and approved, the City will need to pass amendments to make sure that it fulfills its remaining environmental duties.

CONCLUSION

As I told you before, Ms. Roberson believes that the proposed CAO is largely acceptable and reasonable, even if it is not her ideal law. Even so, there are still ways the draft can be approved. Ultimately, Ms. Roberson's goal, which I believe you share, is to make sure that the CAO balances the interests of developers with the need to protect Medical Lake's environment. The City cannot achieve this goal unless it has clear power to enforce the law and deter violation. The proposed amendment to the enforcement section of the draft CAO is long, but it is largely drawn

from the present code. I encourage the council to review Ms. Roberson's proposed amendments carefully and adopt them.

Thank you for your time and attention in this important process. If council members or their representatives have questions or would like to discuss this proposal, I am happy to speak by phone or to attend a council meeting to assist the City in improving the CAO.

Sincerely,

A handwritten signature in blue ink, appearing to read "Trevor Matthews".

Trevor Matthews
Phillabaum, Ledlin, Matthews & Sheldon, PLLC
Attorneys for Tammy M. Roberson

Comments – February 21, 2023 City Council Meeting (1st Interested Citizens)
(As Of: 21 Feb 2023)

Good evening, Mayor, City Council members and City Officials.

My goal in submitting these four additional amendments is to strengthen and clarify portions of the Critical Areas Ordinance (CAO) that deal with wetland delineation and enforcement. These amendments attempt to make it clear that the City has direct power to enforce the CAO, that wetland delineation is a scientific process that should be deferred to experts and to address ambiguities. Three examples include:

Amendment #5: Ensure that the City has sufficient enforcement authority.

- 1) Without enforcement powers, there is no law because there is no deterrent to violation.
- 2) The current effective version of the City Code, contains relatively robust, if flawed, enforcement provisions. It allows the City to stop work, levy fines and order restoration of critical areas.
- 3) By contrast, the proposed CAO is short on detail and gives the City less enforcement authority.
- 4) This proposed amendment attempts to adapt those provisions to make clear that the City has direct authority to enforce the CAO against violators.
- 5) This revision allows the City to act more quickly by imposing penalties administratively, but protects the rights of landowners by allowing immediate appeal of administrative enforcement to the hearing examiner

Amendment #6: Ensure experts determine wetland boundaries.

- 1) City officials should have oversight duties, but not final authority to declare the extent of a wetland boundary
- 2) City officials are not experts, they are not qualified to interpose their judgement for that of a qualified professional submitting a report.

Amendment #7: Make it clear that buffer averaging must improve wetland protection.

- 1) Comes directly from guidance published by DOE.
- 2) This is valuable because buffer averaging is not intended to be a loophole to make projects easier.
- 3) It is designed to allow development while increasing wetland functions for the benefit of the City and its citizens.

My goal, which I believe you share, is to make sure that the CAO balances the interests of developers with the need to protect Medical Lake’s environment. The City cannot achieve this goal unless it has clear power to enforce the law and deter violation.

Since one of Medical Lake’s community issues (per the 2019 Comprehensive Plan) is “the community’s wetlands, lakes, and shorelines which are vulnerable to encroachment and misuse, this requires dedicated enforcement of conservation polices and regulations.” which equates to a well written and enforced CAO.

Please review my proposed eight amendments carefully and adopt them.

May the force be with our wetlands and the future of Medical Lake.

As always, thank you so much for your attention and ensuring our City wetlands have extra protections at the local level.

Tammy M. Roberson, 424 W Brooks

Comments – February 21, 2023 City Council Meeting (2nd Interested Citizens)
(As Of: 21 Feb 2023)

Good evening, Mayor, City Council members and City Officials.

On a side note from wetlands: There are other types of critical areas found in Medical Lake which are in the City's 2019 Comprehensive Plan but missing from the Critical Areas Ordinance (CAO).

The proposed CAO only deals with a fraction of them from the Comp Plan.

1st example from the Comprehensive Plan, "The city's critical areas ordinance addresses development occurring over the aquifer and within the aquifer recharge area" (page 103) but the CAO does not address protection of this critical area.

2nd example, "the City has some wind erosion of exposed soils" (page 105) but the CAO does not mention Geologically Hazardous Areas.

3rd example, according to the Dept of Natural Resources, Medical Lake has forestlands but again this is not mentioned in the CAO nor for that matter in the Comprehensive Plan.

The City Council should work diligently to ensure that the draft CAO is just the beginning of Medical Lake's efforts to protect the environment.

Once the CAO is properly amended and approved, the City will need to pass amendments to make sure that it fulfills its remaining environmental duties.

Not sure why you all did not go over the proposed eight amendments and let us know why these were not added (communicating with us verbally or in writing). These eight amendments were not even discussed among the members. Instead, you all went over the small grammatical errors which will not help the wetlands out. BTW – these small errors should have been caught by the Planning Commission... The City Council's job is to review the "meat" of the CAO...

May the force be with our wetlands and the future of Medical Lake.

Thank you for your attention and time.

Tammy M. Roberson, 424 W Brooks

**CITY OF MEDICAL LAKE
SPOKANE COUNTY, WASHINGTON
RESOLUTION NO. 23-577**

**A RESOLUTION OF THE CITY OF MEDICAL LAKE APPROVING AN
EXTENSION OF THE AGREEMENT BETWEEN THE CITY OF MEDICAL
LAKE AND E & H ENGINEERING, INC.**

WHEREAS, the City of Medical Lake and E & H Engineering, Inc. previously entered into an Agreement for Engineering Services (“Agreement”) that provided for a mutual extension of the Agreement; and

WHEREAS, the parties are desirous of extending the Agreement through 2023; and

WHEREAS, the City of Medical Lake and E & H Engineering, Inc. have prepared an Extension of Agreement Between the City of Medical Lake, Washington and E & H Engineering, Inc. (“Extension Agreement”) to extend services through the 2023 calendar year.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MEDICAL LAKE, WASHINGTON, as follows:

Section 1. Approval. The City Council hereby approves of the Extension Agreement between the City of Medical Lake and E & H Engineering, Inc. as set forth in the attached Exhibit A, which is incorporated herein.

Section 2. Severability. If any section, sentence, clause, or phrase of this resolution should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this resolution.

Section 3. Effective Date. This Resolution shall be effective immediately upon passage by the City of Medical Lake City Council.

ADOPTED this 7th day of March, 2023.

Terri Cooper, Mayor

Attest:

Approved as to Form:

Koss Ronholt, City Clerk

Sean P. Boutz, City Attorney

**EXTENSION OF AGREEMENT BETWEEN
THE CITY OF MEDICAL LAKE, WASHINGTON AND
E & H ENGINEERING, INC.**

THIS AGREEMENT is made and entered into between the CITY OF MEDICAL LAKE, WASHINGTON and E & H ENGINEERING, INC. (collectively the “Parties”).

WHEREAS, the Parties previously entered into an Agreement for Engineering Services (“Agreement”) whereby E & H Engineering, Inc. provides engineering services to the City of Medical Lake; and

WHEREAS, the previous extension of the Agreement expired on December 31, 2022; and

WHEREAS, pursuant to the Agreement, the Parties wish to extend the Agreement through 2023; now therefore,

THE PARTIES hereby extend the Agreement, on the same terms and conditions as currently exist, through December 31, 2023.

DATED this _____ day of March, 2023.

CITY OF MEDICAL LAKE

E & H ENGINEERING, INC.

BY: _____
Terri Cooper, Mayor

ITS:

ATTEST:

Koss Ronholt, City Clerk

APPROVED AS TO FORM:

Sean P. Boutz, City Attorney

**CITY OF MEDICAL LAKE
SPOKANE COUNTY, WASHINGTON
RESOLUTION NO. 23-578**

**A RESOLUTION OF THE CITY OF MEDICAL LAKE, SPOKANE COUNTY,
WASHINGTON AUTHORIZING THE MAYOR TO ENTER INTO A
PROFESSIONAL SERVICES AGREEMENT WITH MNATI CONSULTING LLC,
FOR GRANT WRITING SERVICES**

WHEREAS, the Mayor has recommended, and the City Council agrees, that the City would benefit from retaining the services of a Grant Writer; and

WHEREAS, Mnati Consulting LLC, through its principal Alise Mnati, has agreed to provide Grant Writing Services to the City; and

WHEREAS, the City Council finds that it is in the best interest of the City to approve a contract with Mnati Consulting LLC, to provide Grant Writing Services to the City upon the conditions herein set forth below.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MEDICAL LAKE, WASHINGTON:

Section 1. Approval. The City Council hereby approves of the Agreement for Professional Services with Mnati Consulting LLC, attached hereto as Exhibit A and incorporated herein, to provide the City with Grant Writing services and the Mayor is authorized to execute said Agreement on behalf of the City.

Section 2. Severability. If any section, sentence, clause, or phrase of this Resolution should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this Resolution.

Section 3. Effective Date. This Resolution shall be effective immediately upon passage by the City of Medical Lake City Council.

ADOPTED this _____ day of March, 2023.

CITY OF MEDICAL LAKE:

Terri Cooper, Mayor

ATTEST:

Koss Ronholt, City Clerk

APPROVED AS TO FORM:

Sean P. Boutz, City Attorney

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT (the "**Agreement**") is made by and between the City of Medical Lake, a code City of the State of Washington (the "**City**") and Mnati Consulting, LLC (the "**Consultant**"), jointly referred to as the "**Parties**" and individually, each as a "**Party**".

WHEREAS, the Consultant has the skill, knowledge and resources to provide the services set forth on the attached Exhibit A (the "**Scope of Work**"), incorporated by reference herein; and

WHEREAS, the City desires to engage the Consultant to perform the Scope of Work.

IN CONSIDERATION of the terms and conditions contained herein the Parties covenant and agree as follows:

- 1) Work to Be Performed. The Consultant will furnish all personnel, equipment, supplies, material and labor to provide the Scope of Work. Consultant shall perform all services in compliance with current professional standards.

The Mayor (which term includes designee) shall administer and be the primary contact for the Consultant. Prior to commencement of services, the Consultant shall contact the Mayor to review the Scope of Work. Upon notice from the Mayor, or designee, the Contractor shall promptly commence or terminate the Scope of Work.

- 2) Term of Agreement. The Consultant shall commence the Scope of Work upon notice from the Mayor and shall complete the same in accordance with an agreed schedule.
- 3) Compensation and Payment. The City agrees to pay the Consultant an amount not to exceed \$5,000. The Consultant shall submit invoices for payment based upon the rate of \$60.00 per hour to the City at the below stated address.

The City reserves the right to withhold payment under this Agreement which is determined in the reasonable judgment of the Mayor, or designee, to be either unsatisfactory or noncompliant with the Scope of Work.

- 4) Notice. Notice shall be given in writing as follows:

TO THE CITY:
Name: City of Medical Lake
Attn: Terri Cooper
Address: P.O. Box 369
Medical Lake, WA 99022

TO THE CONSULTANT:
Name: Mnati Consulting, LLC
Attn: Alise Mnati
Address: 18362 W. North Ln
Waddell, AZ 85355

- 5) State and Federal Taxes. The City will not:
 - (a) withhold FICA (Social Security and Medicare taxes) from the Consultant's payments or make FICA payments on the Consultant's behalf;

(b) make state or federal unemployment compensation contributions on the Consultant's behalf; or

(c) withhold state or federal income tax from the Consultant's payments.

The Consultant shall pay all taxes incurred while performing services under this Agreement, including all applicable income taxes and self-employment (Social Security) taxes. Upon demand, the Consultant shall provide proof that such payments have been made.

6. Applicable Laws and Standards. The Parties, in the performance of this Agreement, agree to comply with all applicable Federal, State, Local laws, and regulations.
7. Relationship of the Parties. It is agreed that the Consultant shall be an independent contractor and not the agent or employee of the City. The City is interested in performance of the Scope of Work with the right to control the manner, method and means of delivering the services solely within the discretion of the Consultant. Any and all employees who provide services under this Agreement shall be deemed employees of the Consultant. The Consultant shall be solely responsible for its actions and those of its employees assuming all liability that may attach thereto.
8. Insurance Requirements. Unless agreed otherwise by the City, the Consultant shall purchase and maintain, during the term of this Agreement, a comprehensive general liability policy in the amount of \$2,000,000.00 per occurrence, with the City as an additional named insured.
9. Indemnification and Hold Harmless. Each party shall indemnify and hold the other, its officers, employees, agents, and volunteers harmless from and against any and all claims, demands, orders, decrees or judgments for injuries, death or damage to any person or property arising or resulting from any act or omission on the part of said party or its agents, employees or volunteers in the performance of this Agreement.
10. Assignment and Delegation. Neither Party shall assign any or all of the duties and responsibilities of this Agreement without the written consent of the other Party.
11. Jurisdiction and Venue. This Agreement is entered into in Spokane County, Washington. Venue for any disputes arising as a result of this Agreement shall be in Spokane County, State of Washington.
12. Cost and Attorney's Fees. In the event a lawsuit is brought with respect to this Agreement, the prevailing party shall be awarded its costs and attorney's fees in the amount to be determined by the court as reasonable.
13. Entire Agreement. This written Agreement and the Scope of Work constitutes the entire and complete agreement between the Parties and supersedes any prior oral or written agreements. This Agreement may not be changed, modified, or altered except in writing signed by the Parties hereto.

14. Attachments. Exhibit A – The Consultant's Scope of Work.

IN WITNESS WHEREOF, the Parties have executed this Agreement this _____ day of _____, 2023.

CITY OF MEDICAL LAKE:

MNATI CONSULTING, LLC:

By: Terri Cooper, City Mayor

By: Alise Mnati, Chief Executive Officer

Exhibit "A"
Scope of Work

I. Scope of Work: Consultant agrees to provide the following services for the City of Medical Lake.

85% of work will include grant writing:

1. Write and edit proposal to prospective grant funder, including but not limited to:
 - a. project narrative,
 - b. abstract,
 - c. project timeline,
 - d. budget and budget narrative,
 - e. action plan or logic model if needed
 - f. new job descriptions if needed
 - g. organizational chart and project team structure
 - h. submit final copy to the mayor for final approval before submission.

10% of the work will include grant research/preparation to apply:

1. Develop grant writing plan to include needed data, financial information, letters of support, and/or MOUs that will be submitted to the mayor for approval.
2. City must assign agency representative to assist Consultant in gathering needed supporting documents.
3. City must assign department director/lead to collaborate with the Consultant in creating grant goals, budget, and outcome measurements specific to each department applying for a grant.
4. Review organization materials and research/review other background information as necessary to create grant proposal.
5. Research and obtain needed data from City for proposal.

5% of the work will include project development:

1. Attend required grant meetings virtually and/or by telephone.
2. Assist City with developing project evaluation methods, including but not limited to:
 - a. communicate with company departments and partner applicants on proposed data collection.
 - b. develop grant deliverables, outputs, and outcomes
3. Maintain communication and grant updates with the City and partner applicants. This could include attending City Council meetings and providing any needed visual presentations.
4. Explore and elicit potential community partners needed for grant proposal.

II. Compensation: The City agrees to compensate the Consultant at the rate of \$60.00 per hour. Consultant will keep careful track of hours spent on City business and submit an itemized invoice monthly. Billable hours will include all activities mentioned in Section I. Time will be rounded to the nearest quarter hour. The Consultant will invoice the City monthly. Invoices will be submitted via email to Terri Cooper at tcooper@medical-lake.org by the 5th of each month.

III. Independent Contractor: Consultant acknowledges that the services rendered under this Agreement shall be solely as an independent contractor. It is expressly understood that this undertaking is not a joint venture. Consultant is responsible for the payment of all federal, state, and local income taxes.

IV. Confidentiality: Both Parties agree to adhere to strict confidentiality practices and to provide each other with their best efforts in the fulfillment of this Agreement. Consultant agrees not to disclose private information about the Company or its donors. "Private information" does not include information available in the public domain.

V. Guarantees: Consultant shall use all resources at Consultant's disposal to perform duties as assigned and agreed to by both Parties and shall submit same in good faith. However, no guarantee of receipt of funding by the City is implied or promised by Consultant. Payment is due even if the City does not submit proposal or receive a grant. In addition, Consultant and City recognize that performance of tasks in Section II necessitates communication and information exchange between the Parties and with funders, and that delay in completing the tasks may occur if there are delays with information exchange. City also recognizes that if grants are received, the City is responsible for any acknowledgments and reports to funders.

This Agreement shall constitute the entire agreement between the parties and shall **remain in effect until the work under this Agreement is completed, or this Agreement is terminated.** This Agreement may be terminated or renegotiated by either party with 14 (fourteen) days' written notice (by email or postal mail) to the other party.

City of Medical Lake:

Mnati Consulting, LLC:

By: Terri Cooper, City Mayor

By: Alise Mnati, Chief Executive Director

Date: _____

Date: _____

**CITY OF MEDICAL LAKE
SPOKANE COUNTY, WASHINGTON
RESOLUTION NO. 23-579**

**A RESOLUTION OF THE CITY OF MEDICAL LAKE, SPOKANE COUNTY,
WASHINGTON APPROVING A GRANT AGREEMENT BETWEEN THE CITY OF
MEDICAL LAKE AND TRANSALTA CENTRALIA BOARD FUNDING, LLC**

WHEREAS, the City of Medical Lake (“City”) and TransAlta Centralia Board Funding, LLC (“TransAlta”) have prepared a Grant Agreement (“Agreement”) to establish the terms and conditions of a grant of funds from TransAlta to the City to support the installation of a 100kW ground mounted solar system as the City’s Wastewater Treatment Plant; and

WHEREAS, the Agreement sets forth the requirements of the parties, including the disbursement schedule for all grant funds in the amount of One Hundred Eighty-Five Thousand Dollars (\$185,000.00); and

WHEREAS, City Staff recommends the City Council approve the Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MEDICAL LAKE, WASHINGTON:

Section 1. Approval. The City Council hereby approves of the Agreement, attached hereto as Exhibit A and incorporated herein, and the Mayor is authorized to execute said Agreement on behalf of the City.

Section 2. Severability. If any section, sentence, clause, or phrase of this Resolution should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this Resolution.

Section 3. Effective Date. This Resolution shall be effective immediately upon passage by the City of Medical Lake City Council.

ADOPTED this ___7th___ day of March, 2023.

CITY OF MEDICAL LAKE:

Terri Cooper, Mayor

ATTEST:

Koss Ronholt, City Clerk

APPROVED AS TO FORM:

Sean P. Boutz, City Attorney

TRANSALTA CENTRALIA BOARD FUNDING, LLC
Energy Technology Fund
GRANT AGREEMENT

This Grant Agreement (the “Grant Agreement”) is entered between TransAlta Centralia Board Funding, LLC, acting through its Energy Technology Board (“Grantor”), and the City of Medical Lake (“Grantee”) to establish the terms and conditions of a grant of funds from Grantor to Grantee to support the installation of a 100kW ground mounted solar system at the Wastewater Treatment Plant owned by the City of Medical Lake. In consideration of the mutual covenants, conditions, and agreements that follow, the parties hereby agree:

1. *Grant.* Grantee will receive the sum of \$185,000.00 subject to all the terms and conditions of this Grant Agreement.
2. *Disbursement Schedule.* The grant funds will be paid to Grantee in accordance with the disbursement schedule set forth on Exhibit A to this Grant Agreement, provided that Grantee returns a countersigned original of this Grant Agreement prior the date of the first such disbursement.
3. *Grant Activities; Budget.* Grantor agrees to perform the activities described in its grant proposal as finally accepted, a copy of which is attached to this Grant Agreement as Exhibit B (the “Grant Proposal”). Grantor approves the budget included in the Grantee’s Grant Proposal.
4. *General Conditions.* Attached as Exhibit C to this Grant Agreement are the TransAlta Centralia Board Funding, LLC Grant Terms and Conditions. Grantee acknowledges that it has read the TransAlta Grant Terms and Conditions and agrees to comply with them.
5. *Grantee Reports.* Grantee agrees to provide to Grantor the narrative reports and financial reports in accordance with paragraph 6 of the Grant Terms and Conditions. Such reports shall be in the form set forth on Exhibit D to this Grant Agreement.
6. *Special Conditions.* The award of the Grant is subject to the additional conditions and agreements between Grantor and Grantee that are set forth on Exhibit E to this Grant Agreement.
7. *Term; Grant Period.* This Grant Agreement shall be effective upon signature by Grantor and Grantee and shall expire December 31, 2024, unless extended by mutual consent or terminated earlier in accordance with this Grant Agreement (the “Grant Period”). Any funds not expended as of the

end of the Grant Period shall be returned to Grantor unless permission has been obtained from Grantor.

- 8. *Governing Law.* This Grant Agreement shall be governed by and construed in accordance with the laws of the State of Washington, without reference to its conflict of laws provisions. Grantor and Grantee agree that any disputes or proceedings arising from or concerning this Grant Agreement shall be brought in a federal or state court of competent jurisdiction sitting in the Western District of Washington, in the United States, and hereby consents to the personal jurisdiction and venue of such courts.

- 9. *Entire Agreement.* Grantee acknowledges and agrees that this Grant Agreement and the exhibits hereto (all of which are incorporated herein by reference and made a part of this Grant Agreement) represent the entire agreement between Grantee and Grantor with respect to the subject matter addressed herein. The terms of this Grant Agreement may be modified only by a writing signed by duly authorized representatives of both parties.

Accepted by:

City of Medical Lake

Date

Date

Approved by:

Energy Technology Board of TransAlta Centralia Board Funding, LLC

Lori Schmitt, Chairperson

Date

Mickey Dreher, Board Member

Date

EXHIBIT A

DISBURSEMENT SCHEDULE

Date	Disbursement Amount	Conditions (if any)
TBD	\$185,000.00	subject to paragraph 2 of this agreement subject to the Grantee receiving additional funding to complete the project

EXHIBIT B

ACCEPTED GRANT PROPOSAL

See attached.

EXHIBIT C

TRANSALTA CENTRALIA BOARD FUNDING, LLC GRANT TERMS AND CONDITIONS

The following are the general terms and conditions of grants by TransAlta Centralia Board Funding, LLC, acting through its Grant Review Boards (the "Grantor"):

1. REPRESENTATIONS AND WARRANTIES OF GRANTEE. By executing and delivering the Grant Agreement, Grantee represents and warrants to Grantor as follows:
 - a. Grantee has the requisite legal authority and power to execute and deliver and to carry out the terms of the Grant Agreement.
 - b. To the knowledge of Grantee, the statements made by Grantee in the Grant Proposal (other than forward-looking statements related to the proposed project and application of grant proceeds) are true and correct in all material respects.
 - c. Grantee understands that there is no correlation or connection between Grantor's award of grants and Grantee's business relationship or potential business relationship with Grantor or its affiliates. Participation in Grantor's grant program does not require or impose any *quid pro quo* condition. If Grantee believes that a *quid pro quo* condition exists or may exist, it shall contact Lori Schmitt, c/o TransAlta Centralia Board Funding, LLC, 913 Big Hanaford Road, Centralia, Washington, 98531 to report the condition.
2. REPRESENTATIONS AND WARRANTIES OF GRANTOR. By executing and delivering the Grant Agreement, Grantor represents and warrants to Grantee as follows:
 - a. Grantor has the requisite legal authority and power to execute and deliver and to carry out the terms of the Grant Agreement.
 - b. There is no correlation or connection between Grantor's award of grants and the Grantee's business relationship or potential business relationship with Grantor or its affiliates. Participation in Grantor's grant program does not require or impose any *quid pro quo* condition.
3. FUND DISTRIBUTION. Funds awarded will be distributed in accordance with the disbursement schedule attached as Exhibit A to the Grant Agreement.
4. BUDGET REVISION. Grant funds shall be used as set forth in the budget included in the final grant proposal, attached as Exhibit B to the Grant Agreement (the "Grant

Proposal”). Any transfer of funds from one budget item to another that exceeds 10% of the approved budget item requires Grantor’s prior written consent.

5. NO COST EXTENSION. If needed, Grantee may submit a request for a no-cost extension to Grantor before the end of the Grant Period. The request should contain the reason for the extension, any unexpended funds identified and how the funds will be used, and the length of time requested for the extension. Grantor may in its sole discretion approve or deny such request for an extension, and if such extension is approved, then the Grant Period (as such term is defined in the Grant Agreement) shall be accordingly extended.
6. GRANTEE REPORTS. Grantees must submit periodic reports to Grantor.
 - a. Narrative Report. A quarterly narrative report concerning the nature and use of funds awarded pursuant to this grant is to be submitted in the format set forth on Exhibit D to the Grant Agreement, unless otherwise specified in the Grant Agreement. The quarterly reporting periods shall commence the first quarter following the date of signing the Grant Agreement. Grant periods will be March 30, June 30, September 30, and December 30. A final report shall be due within 30 days of the completion of the project. In the event there is a change in the project schedule the Grantee shall provide a report to the Grantor outlining the schedule and the reason for delay.
 - b. Financial Reports. Quarterly financial reports consisting of an unaudited balance sheet and unaudited statements of income and cash flows for the quarter then ended shall be submitted by Grantee in the format set forth on Exhibit D to the Grant Agreement within 30 days for the quarter then ended. The Grantor may request audited financial statements from the Grantee.
7. REPORTING REQUIREMENT; WAIVER. Failure to submit reports required under paragraphs 6 or 7 of these Grant Terms and Conditions in a manner satisfactory to Grantor on a timely basis may result in delay or loss of funds. Under exceptional circumstances, a waiver of Grantor’s obligation to submit such may be available. A written request to waive this requirement must be made to Grantor on or before the end of the period covered by such reporting requirement.
8. GRANT EVALUATION. Grant performance will be evaluated during the year for which the grant is made. The information received in the reports described in paragraphs 6 or 7 of these Grant Terms and Conditions and any Special Conditions required in the Grant Agreement, and, at the discretion of Grantor, from other sources, will form the basis for the report. Grantees must provide further information if requested by Grantor.

9. RECORDS; RIGHT TO INSPECT. Original receipts and invoices must be maintained by Grantee. Grantee agrees to maintain adequate financial records consistent with generally accepted accounting practices, and to retain such records for at least five years after the conclusion of the Grant Period. Grantor staff and trustees may review Grantee's data, records, or materials relating to the administration and performance of a grant at any time on five (5) business days' notice. Grantee will not be required to produce data, records, or materials that would be confidential information under the attorney-client privilege or work product doctrine.
10. TERMINATION. Grantor has the right to terminate the Grant Agreement at any time that it determines that any of the following events has occurred:
- a. such funds have not been or will not be expended reasonably or prudently for the purposes specified in the Grant Agreement;
 - b. Grantee has violated any federal, state, or local law or regulation;
 - c. Grantee has failed to fully comply with these Grant Terms and Conditions and the Grant Agreement, including an unapproved deviation from the Grant Proposal, in either case only if such breach has not been cured within 30 days of Grantor providing Grantee written notice of such breach; or
 - d. Grantor has insufficient funds available for distribution.

In the event the Grant Agreement is terminated under clauses (a), (b) or (c) of this Section 11, Grantor reserves the right to require Grantee to refund any and all grant funds awarded to Grantee under the Grant Agreement, and Grantee agrees to refund Grantor all such funds upon request.

11. UNUSED FUNDS. At the conclusion of the Grant Period, Grantee agrees to return any unexpended or unaccounted for funds to Grantor, or to submit a written request for an extension of the Grant Period. Grantee agrees to return all disbursed funds (1) if grant funds have not been used for their intended purpose, or (2) if grant funds have been used inconsistently with the terms of the Grant Agreement or these Grant Terms and Conditions, or (3) if the activities or outputs set forth in the Grant Proposal are materially incomplete by the end of the Grant Period, as determined by Grantor in its sole discretion.
12. NO LOBBYING. Grantee confirms that the grant funds will not be used for the purposes of lobbying, carrying on propaganda, or otherwise attempting to influence legislation. If Grantee is in doubt about whether its proposed activities may constitute lobbying, Grantee must consult with Grantor prior to undertaking them.

13. LIABILITY INSURANCE. Grantee shall maintain commercial liability insurance that protects Grantee and its officers, agents, and employees from any and all claims, demands, actions, and suits for damage to property or personal injury, including death, arising from Grantee's work under the Grant Agreement. The insurance shall provide coverage for not less than \$2,000,000 per occurrence. If the insurance is canceled or terminated prior to completion of the Grant Agreement, Grantee shall provide a new policy with the same terms. Grantee agrees to maintain continuous, uninterrupted coverage for the Grant Period. The insurance shall include coverage for any damages or injuries arising out of the use of automobiles or other motor vehicles by Grantee.
14. USE OF NAME. Grantee shall acquire prior written consent from Grantor for any use of the TransAlta name or logo in association with its project or the grant.
15. PUBLICITY. Grantee will notify Grantor of any publications or other materials resulting from the grant no later than five (5) days in advance of distribution or publication. Grantee will acknowledge Grantor's support in the beginning of any publication (including film and electronic publications) referring to or resulting from this grant, as follows: "Supported [in part] by a grant from TransAlta Centralia Generation LLC." Grantee agrees that Grantor may include information about Grantee and its activities in its own annual reports and may distribute such information to third parties.
16. FUTURE FUNDING. This grant of funds implies no agreement of any kind by Grantor to grant additional or future funds to Grantee.
17. NO GRANTOR RESPONSIBILITY FOR GRANTEE OBLIGATIONS. Nothing in the Grant Agreement shall be deemed to authorize Grantee to enter any contract, lease, or other agreement on behalf of Grantor. All obligations undertaken by Grantee pursuant to the Grant Agreement shall be on its own behalf. Grantor shall have no responsibility to third parties in connection with the Grant Agreement.
18. INDEMNITY. Grantee shall and hereby does indemnify and hold Grantor, TransAlta Centralia Generation LLC, their affiliates, and their respective employees, officers, agents and representatives (together, the "Indemnitees") free and harmless from liability from any and all suits, claims, demands, losses, damages, actions or judgments of every kind and description (including attorneys' fees and other costs of defense) arising out of the funds granted hereunder, including Grantee's use or administration of the funds, or suffered by the Indemnitees, directly or indirectly, on account of actions or omissions by Grantee in the performance of its obligations hereunder or otherwise.
19. LIMITATION OF LIABILITY. IN NO EVENT, SHALL GRANTOR BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OR EXPENSES FOR

ANY NEGLIGENCE, BREACH OF CONTRACT, OR ANY OTHER ACT ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE ACTIVITIES COVERED HEREIN.

20. AMENDMENTS; WAIVERS. Amendments to the Grant Agreement must be in writing and signed by both parties. No waiver by either party or any breach, default, or series of breaches or defaults, and no failure, refusal, or neglect of either party to exercise any right, power, or option given to it under the Grant Agreement or to insist upon strict compliance with the terms of the Grant Agreement shall constitute a waiver of these provisions with respect to any subsequent breach or waiver by either party or its right at any time thereafter to require exact and strict compliance with provisions of the Grant Agreement.
21. NO ASSIGNMENT. Grantee may not assign the Grant Agreement or delegate performance of the terms of the Grant Agreement or of the project to any other person or entity without Grantor's prior written consent.

EXHIBIT D

FORMS OF GRANTEE REPORTS

As prepared by Grantee and accepted by Grantor.

EXHIBIT E

SPECIAL CONDITIONS AND AGREEMENTS

There are no other special conditions and agreements except as otherwise specified in this Grant Agreement and Exhibits A - D hereof.

**CITY OF MEDICAL LAKE
SPOKANE COUNTY, WASHINGTON
ORDINANCE NO. 1108**

**AN ORDINANCE OF THE CITY OF MEDICAL LAKE, WASHINGTON RELATING
TO CRITICAL AREAS AND AMENDING AND REPEALING VARIOUS SECTIONS
AND SUBSECTIONS AND ADDING NEW SECTIONS TO TITLE 17, CHAPTER 17.10
OF THE MEDICAL LAKE MUNICIPAL CODE.**

WHEREAS, City of Medical Lake Municipal Code (MLMC) 17.10 contains the City development regulations pertaining to the protection of critical areas within the City; and

WHEREAS, the Growth Management Act (GMA) requires the City of Medical Lake to review and update its' Critical Areas Regulations pursuant to RCW 36.70A.130; and

WHEREAS, the environmental impacts of the amendments to the critical areas regulations resulted in the issuance of a Determination of Non-Significance (DNS) on October 6, 2022; and

WHEREAS, the City of Medical Lake Planning Commission (Planning Commission) considered the proposed Critical Areas Regulations amendments at a properly noticed public hearing on September 22, 2022, so as to receive public testimony; and

WHEREAS, at its December 15, 2022, meeting, the Planning Commission voted to recommend approval of the amendments to the Critical Areas Regulations; and

WHEREAS, on February 7, 2023, the City Council discussed the proposed Critical Areas Regulations amendments at a properly noticed open public meeting; and

WHEREAS, pursuant to RCW 36.70A.370, the City used the process established by the Washington State Attorney General to assure the protection of private property rights; and

WHEREAS, pursuant to RCW 36.70A.106, on September 21, 2022, the City provided the Washington State Department of Commerce with a sixty (60) day notice of its intent to adopt the amendment(s) to the MLMC; and

WHEREAS, the City Council considered the entire public record, public comments, written and oral, and the Planning Commission's recommendation; and

WHEREAS, this Ordinance is supported by the staff report and materials associated with this Ordinance, including documents on file with the City of Medical Lake; and

WHEREAS, this Ordinance is also supported by the professional judgment and experience of the City staff who have worked on this proposal; and

WHEREAS, RCW 35A.63 and RCW 36.70A and Article 11 of the Washington State Constitution authorize and permit the City to adopt this Ordinance; and

WHEREAS, the City Council determined that the proposed amendments are in accord with the Comprehensive Plan, will not adversely affect the public health, safety, or general welfare, and are in the best interest of the citizens and property owners of the City; and

WHEREAS, the City Council determined that the proposed amendments are consistent with the goals and requirements of the GMA; and

WHEREAS, it is the City Council expectation that this Ordinance will not be published as required by law until it is approved by the Washington State Department of Ecology; and

WHEREAS, once the Department of Ecology approves the Ordinance, then it may be published as required by law.

NOW, THEREFORE, the City Council of the City of Medical Lake, Washington does ordain as follows:

Section 1. Amendment. MLMC 17.10 Resource Lands and Critical Areas Preservation is amended and repealed, where applicable, as set forth in Exhibit A to this Ordinance.

Section 2. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 4. Effective Date. This Ordinance shall be in full force and effect five (5) days after publication of this Ordinance or a summary thereof in the official newspaper of the City as provided by law.

PASSED by the City Council this _____ day of March, 2023.

Mayor, Terri Cooper

ATTEST:

Finance Director/City Clerk Koss Ronholt

APPROVED AS TO FORM:

City Attorney, Sean P. Boutz

Date of Publication:

Effective Date:

Chapter 17.10 CRITICAL AREAS

17.10.010 - Purpose.

17.10.020 - General Provisions.

17.10.030 - Applicability and Exemptions from Requirement to Obtain Permit.

17.10.040 - Approval Process.

17.10.050 - Submittal Requirements.

17.10.060 - Approval Criteria.

17.10.070 - Fish and Wildlife Habitat Conservation Areas.

17.10.080 - Frequently Flooded Areas.

17.10.090 - Wetlands

17.10.100 - Reasonable Use Exceptions.

17.10.110 - Minor Exceptions.

17.10.120 - Unauthorized Alterations and Enforcement.

17.10.130 - Definitions.

Chapter 17.10 CRITICAL AREAS

17.10.010 - Purpose.

A. The purpose of this chapter is to designate and protect critical areas and their functions and values, while also allowing for reasonable use of property.

B. As mandated by the Growth Management Act (RCW 36.70A), this chapter provides protection for the critical areas of wetlands, fish and wildlife habitat conservation areas, and frequently flooded areas.

C. This chapter implements the goals and policies of the Medical Lake Comprehensive Plan, under the Washington Growth Management Act and other related state and federal laws.

17.10.020 - General Provisions.

A. *No Net Loss of Functions.* Activity shall result in no net loss of functions and values in the critical areas. Since values are difficult to measure, no net loss of functions and values means no net loss of functions. The beneficial functions provided by critical areas include, but are not limited to, water quality protection and enhancement; fish and wildlife habitat; food chain support; flood storage; conveyance and attenuation of flood waters; ground water recharge and discharge; and erosion control. These beneficial functions are not listed in order of priority. This chapter is also intended to protect residents from hazards and minimize risk of injury or property damage.

B. *Relationship to Other Regulations.*

1. These critical areas regulations shall apply in addition to zoning and other regulations adopted by the city.
2. Any individual critical area that overlaps another type of critical area shall meet the requirements that provide the most protection to the critical areas involved.
3. When there is a conflict between any provisions of this chapter or any other regulations, that which provides the most protection to the subject critical area shall apply.
4. Conditions of approval of a project affecting critical areas may be supplemented by a review under the State Environmental Policy Act (SEPA), as locally adopted.
5. Compliance with the provisions of this chapter does not constitute compliance with other federal, state, and local regulations and permit requirements. The applicant is responsible for complying with other state and federal requirements in addition to the requirements of this chapter. Obtaining all applicable state and federal permits shall be made a condition of a Critical Areas Permit. Such permits shall be obtained prior to issuance of permits for development, construction or site disturbance.

C. *Jurisdiction.* All areas within the city meeting the definition of one or more critical areas, whether mapped or not, are hereby designated critical areas and with their buffers are subject to the provisions of this chapter.

D. *Abrogation and Greater Restrictions.* This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

E. *Severability.* This chapter and the various parts thereof are hereby declared to be severable. Should any section of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

F. *Warning and Disclaimer of Liability.* The standards established herein are minimum standards. The standards are established for regulatory purposes only. Minimum compliance with these standards may not be sufficient protection from identified or unidentified hazards. City establishment of these minimum standards is not a representation that these standards are sufficient protection from any hazard. Critical areas development should be based on sound scientific and engineering considerations that may be more stringent than this chapter. The city assumes no liability if these established standards prove to be insufficient protection.

G. *Interpretation of Critical Area Boundaries.* The planning official shall be authorized to interpret the exact location of the mapped critical area boundary. Final designations shall be based on site conditions and other available data or information.

H. *Exceptions.* Where the applicant seeks an exception to any requirement imposed by this code, or believes said requirement denies all reasonable economic use of the subject property, justification in support of an exception must be clear and convincing. Grant of an exception, on the other hand, must not be unreasonably withheld.

17.10.030 - Applicability and Exemptions from Requirement to Obtain Permit.

A. *Applicability.*

1. Unless exempted by this chapter the provisions of this chapter shall apply to all lands, all land uses, clearing and development activity, and all structures and facilities in the city located within a critical area or buffer or on a site containing a critical area or buffer including single-family residential lots platted before July 19, 1994, and developments such as play structures that require no other permits.

The following are examples of activities regulated within a critical area or its buffer:

- a. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind.
 - b. The dumping of, discharging of, or filling with any material.
 - c. The draining, flooding, or disturbing the water level or water table.
 - d. Pile driving.
 - e. The placing of obstructions.
 - f. The construction, reconstruction, demolition, or expansion of any structure.
 - g. The destruction or alteration of wetland vegetation through clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a regulated wetland.
 - h. Activities that result in:
 - i. A significant change of water temperature.
 - ii. A significant change of physical or chemical characteristics of the sources of water.
 - iii. A significant change in the quantity, timing, or duration of the water.
 - iv. The introduction of pollutants.
2. The provisions of this chapter shall apply whether or not a permit or authorization is required.
3. No person, company, agency, or applicant shall alter a critical area or buffer (including removal of downed woody vegetation or application of chemicals harmful to fish and wildlife) except as consistent with the requirements of this chapter.
4. The Critical Areas Permit required pursuant to this chapter shall be obtained prior to undertaking any activity or development regulated by this chapter, unless exempted by this chapter.
5. Land that is located wholly within a wetland or its buffer may not be subdivided.

B. *Exemptions.* Reasonable methods shall be used to avoid potential impacts to critical areas. Any damage to, or alteration of, a critical area that is not a necessary outcome of the exempt activity shall be corrected at the property owner's expense.

The following activities are exempt from needing a Critical Areas Permit:

1. *Emergencies.* Those activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of property damage and that require remedial or preventative action in a time frame too short to allow for compliance with the requirements of this chapter, so long as all of the following apply:
 - a. The emergency action uses reasonable methods to address the emergency.
 - b. The emergency action must have the minimum possible impact to the critical area or its buffer.
 - c. The property owner, person or agency undertaking such action shall notify the city within one working day following commencement of the emergency activity.
 - d. After the emergency, the property owner, person or agency undertaking the action shall fully fund and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers resulting from the emergency action in accordance with an approved Critical Areas Report and mitigation plan. The property owner, person or agency undertaking the action must apply for a critical areas permit. The alteration, Critical Areas Report, and mitigation plan shall be reviewed by the city in accordance with the review procedures contained in this chapter.
 - e. Restoration and/or mitigation activities must be initiated within three months of the date of the emergency or as otherwise determined by the planning official, and completed in a timely manner.
2. *Valid Critical Areas Permit.* Any development proposed on property pursuant to a currently valid Critical Areas Permit, provided all conditions and requirements of the Critical Areas Permit are met and the proposed activity is within the scope of the original permit.
3. *Hazard Tree.* Emergency or hazard tree removal conducted so that critical area impacts are minimized.
4. *Landscape Maintenance.* Landscape maintenance (other than tree removal or use of pesticides, herbicides, fungicides or fertilizers) consistent with accepted horticultural practices, such as those recommended by the Washington State University Extension Service, within the boundaries of an existing lawn, garden or landscaped area and not associated with development.
5. *Noxious or Invasive Plants.* Clearing of noxious or invasive plants using hand-held equipment such as a weed-whacker, provided (1) fueling and maintenance take place outside the critical area and buffer; (2) all cleared vegetation is taken away and disposed of properly; and (3) denuded soils are stabilized with native vegetation.

6. *State or Federally Approved Conservation or Preservation.* State or federally approved conservation or preservation of soil, water, vegetation, fish, shellfish, and other wildlife that does not entail changing the structure or functions of the existing critical area or buffer.
7. *Harvesting Wild Crops.* The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops or other native vegetation and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the critical area or buffer by changing existing topography, water conditions or water sources.
8. *Passive Activities.* Passive outdoor recreation, education, and scientific research activities such as fishing, hiking, and bird watching that do not degrade the critical area or buffer.
9. *Land surveys, soil sampling, percolation tests, and other related activities.* In every case, impacts to the critical area or buffer shall be minimized and disturbed areas shall be stabilized immediately.
10. *Navigational Aids and Boundary Markers.* Construction or modification of navigational aids and boundary markers. Impacts to the critical area or buffer shall be minimized and disturbed areas shall be restored within 72 hours.
11. *Agricultural Activities.* Existing and ongoing agricultural activities conducted on lands defined in RCW 84.34.020(2).
12. *State or Federally Approved Restoration or Enhancement Project.* Implementation of a state or federally approved restoration or enhancement project not related to any development project.
13. *Operation, Repair and Maintenance.* Operation, repair, and maintenance of existing structures, infrastructure, roads, sidewalks, railroads, trails, water, sewer, stormwater, power, gas, telephone, cable, or fiber optic facilities if the activity does not further increase the impact to, or encroach farther within, the critical area or buffer and there is no increased risk to life or property as a result of the proposed operation, repair, or maintenance.
14. *Fence Repair.* Maintenance, repair, and in-kind replacement of existing fences.
15. Those activities and uses conducted pursuant to the Washington State Forest Practices Act and its rules and regulations, WAC 222-12-030.
16. Repair and maintenance of legally established non-conforming uses or structures, provided they do not increase the degree of nonconformity.

17.10.040 - Approval Process.

A. *Critical Areas Permit Process.*

1. Consolidated reviews. Applications for more than one project on a site may be consolidated into a single application. When more than one review is requested and the reviews have different procedures, the application is processed using the most comprehensive review process.
2. Timeline. A final decision should be made within 120 days from the date the application was deemed complete or a written notice given to the applicant specifying the reasons why the time limits will not be met and an estimated date of issuance.
3. Application. The applicant must submit an application on a city form, to include three paper copies and one electronic copy of the following: 1) a written description of the proposal; 2) a site plan; 3) all required reports and mitigation plans; and 4) a written response to all applicable approval criteria, and the correct fee.
4. Environmental checklist. A completed environmental checklist as specified in Chapter 16.10, may be required with a land use application.
5. Completeness check. Upon receipt of an application it shall be routed to other departments for a determination of completeness under RCW 36.70B.070. Within 28 days the city shall provide written notice that: (a) the application is complete or (b) additional information is required. Once the applicant supplies the additional information, the planning official has 14 days to determine if the application is complete or request further information. If the requested information is not received within 60 days of notice of an incomplete application, the application will be considered abandoned and the city will not refund the application fee.
6. Additional governmental authority. The planning official must notify the applicant of any other governmental authority that may have jurisdiction over some aspect of the proposed project within 28 days of submittal.
7. Notice of application. Following the determination of completeness, the city shall, within 14 days, provide the applicant and the public with a notice of application. Once the applicant receives the notice of application, the applicant shall within 14 days of receipt and 15 days prior to the public hearing, place a public notice in the local newspaper, mail a public notice to all property owners within 300 linear feet of the subject site, and post a public notice on the site. The notice shall include the time, place, and purpose of the of the public hearing.
8. Public comment period. The public may provide written comment for a period of no fewer than 14 days and no greater than 30 days as specified in the public notice, provided public comment may be accepted prior to closing the record where there is an open record hearing or the decision.
9. Department responses. City department directors notified of the application must provide a written response to the planning official within 14 days of the notice.
10. Concurrency determination. The public works director will issue a concurrency determination no more than 14 days after receiving the notice of application per Chapter 16.02

11. SEPA threshold determination. The planning official will issue a SEPA threshold determination no fewer than 15 days prior to a hearing.

12. Review. The planning official must provide a single report stating the approval criteria, findings and a recommendation to the Planning Commission prior to the hearing.

13. Hearing. An open record hearing will be conducted by the Planning Commission. The Planning Commission must recommend approval, approval with conditions, or denial to the City Council based on information presented at the hearing and in the record.

14. Final Decision Authority. The City Council has final decision authority preceded by the recommendation of the Planning Commission.

15. Notice of decision. Within seven days of the decision the planning official will mail notice of the review body's decision (pending appeal) to the applicant, the owner and all recognized organizations or persons who responded in writing to the public notice, testified at the hearing, or requested a notice of decision.

16. Ability to appeal. A decision may be appealed to Superior Court pursuant ~~of to~~ the review process ~~of in~~ RCW 36.70C.

17. Recording. All decisions of approval, including conditions, shall be recorded with Spokane County Auditor. The applicant is responsible for ~~the~~ recording the decision against the property and must provide a copy of the recorded decision to the planning department. The decision must be recorded before the approved use is permitted and/or permits are issued, but no later than 30 days from the final decision.

18. Effective date. The effective date is the day the decision is signed.

19. Expiration. The critical areas permit expires 5 years after the approval date.

B. *Notice on Title – Covenant and Tracts.*

1. *Covenants.* This section applies to all nonexempt projects that involve critical areas and buffers.

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 covenant with the county records and elections division according to the direction of the city. The covenant shall state the presence of the critical area or buffer on the property, the application of this chapter to the property, and the fact that limitations on actions in or affecting the critical area or buffer may exist. The covenant shall “run with the land.”

b. The applicant shall submit proof that the covenant 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, planned unit developments, binding site plans, and other developments that involve platting, at or before recording of the plat.

2. *Tracts*. This section applies in addition to subsection (B)(1) of this section to projects that involve platting on properties containing fish and wildlife habitat conservation areas, wetlands, and their buffers. The location of the tract, critical area(s), and buffer(s) shall be shown on the face of the plat. See subsection (B)(2)(b) of this section for exceptions.

a. The property owner shall place the subject critical areas and buffers in one or more nondevelopable tracts except when:

- i. Creation of a nonbuildable tract would result in violation of minimum lot depth standards; or
- ii. The responsible official determines a tract is impractical.

b. When an exception in subsection (B)(2)(a) of this section applies, residential lots may extend into the critical area(s) or buffer(s) provided:

- i. The location of the outer perimeter of the critical area(s) and buffer(s) is marked in the field and approved by the planning official prior to the commencement of permitted activities and maintained throughout the duration of the permit.
- ii. A permanent physical demarcation along the outer/upland boundary of the critical area buffer(s) is installed and thereafter maintained. Such demarcation may consist of fencing, hedging or other prominent physical marking that allows wildlife passage, blends with the critical area environment, and is approved by the planning official.
- iii. Permanent signs are posted at an interval of one per lot for single-family residential uses or at a maximum interval of 200 feet, or as otherwise determined by the planning official, and must be perpetually maintained by the property owner. The sign shall be worded as follows or with alternative language approved by the planning official: "Protected Natural Resource. Call 509-565-5000 for more information."

C. *Financial Assurances*.

1. When mitigation required pursuant to a development proposal is not completed prior to the city final permit approval, such as final plat approval or final building inspection, the city shall require the applicant to provide security in a form and amount deemed acceptable by the city. If the development proposal is subject to mitigation, the applicant shall provide security in a form and amount deemed acceptable by the city to ensure mitigation is fully functional (including but not limited to construction, maintenance, and monitoring). The security shall be in the amount of 125 percent of the estimated cost of restoring the functions of the critical area that are at risk.

2. The security shall remain in effect for a minimum of 5 years or until the city determines, in writing, that the standards have been met.

3. Depletion, failure, or collection of bond funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.
4. Public development proposals shall be relieved from having to comply with the bonding requirements of this section if public funds have previously been committed in the project budget or capital improvement budget for mitigation, maintenance, monitoring, or restoration.
5. Failure to satisfy any critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within 30 days after it is due or comply with other provisions of an approved mitigation plan shall constitute a default, and the city may demand payment of any financial guarantees or require other action authorized by the city code or any other law.
6. Any funds recovered pursuant to this section shall be used to complete the required mitigation. Excess funds shall be returned to the applicant.

D. *Critical Area Inspections.* Reasonable access to the site shall be provided to the city, state, and federal agency review staff for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period.

~~FE.~~ *Appeals.* Any decision to approve, condition, or deny a development proposal or other activity based on the requirements of this chapter may be appealed according to Section 17.10.040.A.1~~65~~.

17.10.050 - Submittal Requirements.

A. *Preparation by Qualified Professional.* Any required Critical Areas Report shall be prepared by a qualified professional as defined herein.

B. *General Critical Areas Report Contents.* At a minimum, the Critical Areas Report shall contain the following:

1. The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;
2. A copy of the site plan for the development proposal including:
 - a. A map to scale depicting critical areas, buffers, the development proposal, and any areas to be cleared; and
 - b. Estimate of conditions of all critical areas within 250 feet of the project boundaries using best available information.
 - c. Proposed stormwater management and sediment control plan for the development including a description of any impacts to drainage alterations; and

d. A digital map of the geographic information required pursuant to the applicable provisions of this chapter for each critical area and buffer on site.

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

4. *Identification and scientific characterization of all critical areas and buffers.* The scientific characterization shall include a detailed assessment of the functional characteristics of the critical areas;

5. An assessment of the probable impacts to critical areas and buffers and risk of injury or property damage including permanent, temporary, temporal, and indirect impacts resulting from development of the site and the operations of the proposed development;

6. A written response to each of the approval criteria in section 17.10.060 Approval Criteria;

7. Plans for adequate mitigation, as needed, to offset any impacts, in accordance with the Mitigation Plan Requirements below.

C. *Additional Information.* Any additional information required for the specific critical areas and buffers as specified in Section 17.10.070 Fish and Wildlife Habitat Conservation Area, Section 17.10.080 Frequently Flooded Areas, and Section 17.10.090 Wetlands.

D. *Other Reports or Studies.* Unless otherwise provided, a Critical Areas Report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the planning official, provided, the site conditions have not changed since the earlier report or study was completed.

E. *Critical Areas Report – Modifications to Requirements.* Modifications to Required Contents. The applicant may consult with the planning official prior to or during preparation of the Critical Areas Report to obtain city approval of modifications to the required contents of the report where, in the judgment of a qualified professional, more or less information is required to adequately address the potential impacts to any critical areas or buffers and the required mitigation. The planning official may also initiate a modification to the required report contents by requiring either additional or less information, when determined to be necessary to the review of the proposed activity in accordance with this chapter.

F. *Mitigation Plan Requirements.* When mitigation is required, the applicant shall submit a mitigation plan as part of the Critical Areas Report. The mitigation plan shall include:

1. *Detailed Construction Plans.* The mitigation plan shall include descriptions of the mitigation proposed, such as:

a. The proposed construction sequence, timing, and duration;

b. Grading and excavation details;

- c. Erosion and sediment control features;
- d. A planting plan specifying plant species, quantities, locations, size, spacing, and density; and
- e. Measures to protect and maintain plants until established.
- f. Surface and subsurface hydrological conditions unless hydrological conditions are ~~irrelevant~~ not applicable to the subject critical area.

These written descriptions shall be accompanied by detailed site diagrams, scaled cross sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.

2. *Monitoring Program.* The mitigation plan shall include a program for monitoring construction of the mitigation project and for assessing a completed project. A protocol shall be included, outlining the schedule for site monitoring, and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the mitigation project. The mitigation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five (5) years.

When the applicant believes that the conditions of the monitoring plan are met, the applicant shall contact the City and request that the City verify and certify so in writing. The City shall conduct an on-site assessment as part of the verification process. The applicant shall provide reasonable access to the property as necessary for verification and certification.

When the City has verified and certified that the conditions of the monitoring plan have been met, the critical area shall no longer be considered as mitigation, but as a naturally-occurring critical area when processing a future development permit application(s).

3. *Adaptive Management.* The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

17.10.060 - Approval Criteria.

Any activity or development subject to this chapter, unless otherwise provided for in this chapter, shall be reviewed and approved, approved with conditions, or denied based on the proposal's ability to comply with all of the following criteria. The city may condition the proposed activity as necessary to mitigate impacts to critical areas and their buffers and to conform to the standards required by this chapter. Activities shall protect the functions of the critical areas and buffers on the site.

- A. *Avoid Impacts.* The Applicant shall first seek to avoid all impacts that degrade the functions and values of critical area(s). This may necessitate a redesign of the proposal.
- B. *Minimize Impacts.* Where avoidance is not feasible, the applicant shall minimize the impact of the activity and mitigate to the extent necessary to achieve the activity's purpose and the purpose of this ordinance. The applicant shall seek to minimize the fragmentation of the resource to the greatest extent possible.
- C. *Compensatory Mitigation.* The applicant shall compensate for the unavoidable impacts by replacing each of the affected functions to the extent feasible. The compensatory mitigation shall be designed to achieve the functions as soon as practicable. Compensatory mitigation shall be in-kind and on-site, when feasible, and sufficient to maintain the functions of the critical area, and to prevent risk from a hazard posed by a critical area to a development or by a development to a critical area.
- D. *No Net Loss.* The proposal protects the critical area functions and values and results in no net loss of critical area functions and values.
- E. *Consistency with General Purposes.* The proposal is consistent with the general purposes of this chapter and does not pose a significant threat to the public health, safety, or welfare on or off the development proposal site;
- F. *Performance Standards.* The proposal meets the specific performance standards of Fish and Wildlife Habitat Conservation Areas section 17.10.070.C, Frequently Flooded Areas section 17.10.080.D, and Wetlands section 17.10.090.F, as applicable.

17.10.070 - Fish and Wildlife Habitat Conservation Areas.

A. *Designation.*

1. Final designations shall be based on site conditions and other available data or information. There are established in the city the following identified Fish and Wildlife Habitat Conservation Areas:
 - a. Habitat used by any life stage of state or federally designated endangered, threatened, and sensitive fish or wildlife species. A current list of federally and state identified species is available from the Washington State Department of Fish and Wildlife.
 - b. *Priority Habitats and areas associated with Priority Species.* Current maps and lists of Priority Habitats and Species and applicable management recommendations are available from the Washington Department of Fish and Wildlife.
 - c. Water bodies including lakes, streams, rivers, and naturally occurring ponds.

d. Riparian Management Zones. Riparian management zones shall be determined using the best available science, including the Washington Department of Fish and Wildlife publication Riparian Ecosystems: Volumes 1 & 2 (updated July 2020 or as revised).

When impervious surfaces from previous development completely functionally isolate the Riparian Management Zone. from the waterbody, the regulated riparian area shall extend from the ordinary high water mark to the impervious surfaces. If the waterbody is not completely physically isolated, but is completely functionally isolated, the Planning Official may adjust the regulated riparian area to reflect site conditions and sound science.

2. *Habitat Location Information.* Information on the approximate location and extent of Habitat Conservation Areas is available from the planning official.

The habitat location information is based on:

- a. Washington Department of Fish and Wildlife Priority Habitat and Species Maps;
- b. Washington Department of Natural Resources Official Water Type Reference Maps;

B. *Additional Critical Areas Report Requirements.*

1. A Critical Areas Report for a Riparian Management Area or Riparian Buffer shall include evaluation of the habitat functions using a habitat evaluation tool approved by the Washington Department of Fish and Wildlife.

In addition to the standards of Section 17.10.050.B, where a mitigation plan is required as part of the Critical Areas Report for a fish and wildlife habitat conservation area that involves a water body, Riparian Management Area or Riparian Buffer, the monitoring program protocol shall include where relevant to the impacted functions:

- a. Observations and measurements of riparian integrity and quality (buffer width, riparian corridor continuity or fragmentation, species diversity, stand age, plant survival rates)
- b. Large woody debris surveys
- c. Streamflow monitoring
- d. Water quality monitoring to detect pollution impacts
- e. Biological monitoring (including fish surveys and benthic macroinvertebrate sampling)

2. If the clearing or development activity is in the Riparian Management Area, the Critical Areas Report shall contain the following information, if applicable, in addition to the general Critical Areas Report requirements of Section 17.10.050.B:

- a. How the clearing or development activity constitutes a water-dependent, water-related or water-enjoyment use; or
- b. How the clearing or development activity cannot feasibly be located on the site outside of the Riparian Management Area; and
- ~~e. How the proposal meets the Riparian Management Area width averaging standard in Section 17.10.070.C.3.e; and~~
- cd. How the proposal will not adversely affect the connectivity of habitat functions.

C. *Performance Standards.*

1. *General.*

- a. Development or clearing activities shall protect the functions of the Habitat Conservation Areas on the site. The activity shall result in no net loss of functions. Protection can be provided by avoiding (the preferred protection) or minimizing and mitigating as described in the general critical areas approval criteria in Section 17.10.060. Functions include:
 - i. Providing habitat for breeding, rearing, foraging, protection and escape, migration, and overwintering; and
 - ii. Providing complexity of physical structure, supporting biological diversity, regulating stormwater runoff and infiltration, removing pollutants from water, and maintaining appropriate temperatures.
- b. An applicant shall replace any lost functions preferably by restoring or if not, then by enhancing other habitat functions, so long as the applicant demonstrates that enhancement of the other functions provides no net loss in overall functions and maintains habitat connectivity. An example of unavoidable loss of function would be interruption of a travel corridor in a Riparian Management Zone. To the maximum extent feasible, enhancement shall be undertaken on-site.
- c. If development or clearing activity is within a Priority Habitat and Species area, the applicant shall follow Washington Department of Fish and Wildlife Management Guidelines, Management Recommendations or other standards approved by the Washington Department of Fish and Wildlife. Where there are no guidelines, recommendations or other standards, development or clearing may occur provided that:
 - i. The development or clearing results in no net loss of habitat function on the site; and
 - ii. Functionally significant habitat, defined as habitat that cannot be replaced or restored within 20 years, shall be preserved.
- d. Signs for Fish and Wildlife Conservation Areas

i. *Temporary markers.* The location of the outer perimeter of the fish and wildlife habitat conservation area shall be marked in the field, and such marking shall be approved by the planning official prior to the commencement of permitted activities. Such field markings shall be maintained throughout the duration of the permit.

ii. *Permanent signs.* Permanent signs shall be posted on public and private properties at an interval of one per lot for single family residential uses or at a maximum interval of 200 feet or as otherwise determined by the planning official, and must be perpetually maintained by the property owner. The sign shall be worded as follows or with alternative language approved by the planning official: "Natural Resource Area. Call 509-565-5000 for information."

2. Riparian Management Zones.

In addition to the standards in Section 17.10.070.C.1 the standards in this section shall apply in Riparian Management Areas and Buffers.

a. *Riparian Management Zone.* No development or clearing activity is allowed within the Riparian Management Zone unless such activity is:

i. A water-dependent, water-related or water-enjoyment activity where there are no feasible alternatives that would have a less adverse impact on the Riparian Management Area or Riparian Buffer. The applicant shall minimize the impact and mitigate for any unavoidable impact to functions; Cost may be considered, but shall not be overriding; or

ii. A road, railroad, trail, or a water, sewer, stormwater conveyance, gas, power, cable, fiber optic, or telephone facility that cannot feasibly be located outside of the Riparian Management Area, that minimizes impacts, and that mitigates for any unavoidable impact to functions. Cost may be considered, but shall not be overriding; or

iii. Mitigation for activities allowed by this chapter, providing the activity provides no net loss of riparian habitat functions on the site.

b. Owners of developed properties within the Riparian Management Zone are encouraged to enhance the area by planting native plants and to apply integrated pest management.

17.10.080 - Frequently Flooded Areas.

This section shall apply to all special flood hazard areas within the boundaries of the city of Medical Lake.

A. *Designation.* Frequently flooded areas are the areas of special flood hazards identified by the Federal Insurance Administration and the Federal Emergency Management Agency (FEMA)

When base flood elevation (BFE) data has not been provided in frequently flooded areas, the planning official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source in order to administer the provisions of this chapter

B. *Warning and Disclaimer of Liability.* The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city of Medical Lake, any officer or employee thereof, or the Federal Insurance Administration for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

C. *Additional Critical Areas Report Requirements.* In addition to the Critical Areas Report requirements in Section 17.10.050 Submittal Requirements, the following information shall be submitted. Elevation data shall reference the NAVD 1988 Datum.

1. Base (100-year) flood elevation in relation to mean sea level. When base flood elevation has not been provided or is not available from an authoritative source, it shall be generated by the applicant for developments which contain at least 50 lots or 5 acres, whichever is less.
2. Elevation in relation to mean sea level, of the lowest floor (including basement) of all existing and proposed structures.
3. Elevation in relation to mean sea level to which any structure's lowest floor (including basement) is raised to be at least 1 foot above the base flood elevation or for nonresidential flood-proofed structures, the elevation in relation to mean sea level to which any structure is flood-proofed.
4. *Description of strategies taken to avoid, minimize, and mitigate unavoidable impacts to public safety.* When the base flood elevation has not been provided, the Critical Areas Report shall include a discussion of how and whether the proposed development would be reasonably safe from flooding. Historical data, high water marks, photographs of past flooding and other available information will be used as the basis for this discussion and conclusion.
5. Certification, documentation, and demonstration by a qualified professional of how the applicable performance standards will be met.

D. *Performance Standards.* Except as noted, the following standards apply to all structures and development (including but not limited to the placement of manufactured homes, substantial improvement, roads, railroads, trails, water, sewer, stormwater conveyance, gas, power, cable, fiber optic or telephone facilities) in all areas of special flood hazards and channel migration zones.

1. *Prohibited Encroachments.* The following are prohibited in the floodway:
 - a. Water wells.

- b. On-site waste disposal systems.
- c. Residential structures or other structures for human habitation including but not limited to:
 - i. Building envelopes within subdivisions;
 - ii. New construction or reconstruction of residential structures;
 - iii. Placement or replacement of manufactured homes (all types);
 - iv. Critical facilities housing vulnerable populations and emergency services; and
 - v. Recreational vehicles.

2. *Property Damage.* Development shall not result in adverse impacts to other properties either upstream or downstream.

3. *Drainage.* Drainage paths around structures and on slopes shall be adequate to guide floodwaters around and away from proposed structures and adjacent properties.

17.10.090 – Wetlands.

A. *Purpose.* Wetlands provide beneficial functions which include, but are not limited to, providing food, breeding nesting and/or rearing habitat for fish and wildlife; recharging and discharging ground water; contributing to stream flow during low flow periods; stabilizing stream banks and shorelines; storing storm and flood waters to reduce flooding and erosion; and improving water quality through biofiltration, adsorption, and retention and transformation of sediments, nutrients, and toxicants.

B. *Designation.* Wetlands are those areas, designated in accordance with the 1987 Federal Wetland Delineation Manual and applicable regional supplements. All areas meeting the wetland definition, mapped or not, are hereby designated critical areas and subject to this chapter.

C. *Delineation.* Wetland delineations are valid for five years; after such date a qualified professional must determine whether a revision or additional assessment is necessary.

D. *Wetland Ratings.* Wetlands shall be rated according to the Washington State Department of Ecology (Ecology) wetland rating system, as set forth in the Washington State Wetland Rating System for Eastern Washington: 2014 Update (Ecology Publication #14-06-030, or as revised). The rating system document contains the definitions and methods for determining if the criteria below are met. The most recent version of the rating system form must be used. Wetland Rating Categories are as follows:

1. Category I wetlands are: 1) alkali wetlands; 2) wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR; 3) bogs and calcareous fens; 4) mature and old-growth forested wetlands over ¼ acre with slow-growing trees; 5) forests with

stands of aspen; and 6) wetlands that perform many functions well (scores between 22-27). These wetlands are those that 1) represent a unique or rare wetland type; or 2) are more sensitive to disturbance than most wetlands; or 3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or 4) provide a high level of function.

2. Category II wetlands are: 1) forested wetlands in the floodplains of rivers; 2) mature and old-growth forested wetlands over ¼ acre with fast-growing trees; 3) vernal pools; and 4) wetlands that perform functions well (scores between 19-21 points). These wetlands are difficult, though not impossible, to replace and provide high levels of some functions.

3. Category III wetlands have a moderate level of functions (scores between 16-18 points). They generally have been disturbed in some way and are less diverse or more isolated from other natural resources. These wetlands can be often adequately replaced with well-planned mitigation.

4. Category IV wetlands have the lowest levels of functions (scores fewer than 16 points) and are often heavily disturbed. These are wetlands that should be able to be replaced, or in some cases improved. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions and also need to be protected.

E. *Additional Critical Areas Report Requirements.* A critical areas report for wetlands shall be prepared according to the Washington State Wetland Rating System for Eastern Washington. The critical areas report shall contain an analysis of the wetlands including the following site- and proposal-related information:

1. A written assessment, data sheets and accompanying maps of any wetlands or buffers on the site including the following information:
 - a. Hydrogeomorphic (HGM) subclassification and Cowardin class;
 - b. Wetland category;
 - c. Wetland delineation and required buffers;
 - d. Existing wetland acreage;
 - e. Vegetative, faunal, and hydrologic characteristics;
 - f. Soil types and substrate conditions;
 - g. Topographic elevations, at one-foot contours; and
 - h. A discussion of the water sources supplying the wetland and documentation of hydrologic regime (locations of inlet and outlet features, water depths throughout the wetland, evidence of recharge or discharge, evidence of water depths throughout the year – drift lines, algal layers, moss lines, and sediment deposits).

2. Functional evaluation for the wetland and buffer using Ecology's most current approved method and including the reference of the method and all data sheets.
3. Proposed mitigation, if needed, including a discussion of alternatives and trade-offs inherent in the various alternatives (for example, where enhancement for one function would adversely affect another), a written description and accompanying maps of the mitigation area, including the following information:
 - a. Existing and proposed wetland acreage;
 - b. Existing and proposed vegetative and faunal conditions;
 - c. Surface and subsurface hydrological conditions of existing and proposed wetlands and hydrologically associated wetlands including an analysis of existing hydrologic regime and proposed hydrologic regime for enhanced, created, or restored mitigation areas;
 - d. Relationship to lakes, streams and rivers in the watershed;
 - e. Soil type and substrate conditions;
 - f. Topographic elevations, at one-foot contours;
 - g. Required wetland buffers including existing and proposed vegetation;
 - h. Identification of the wetland's contributing area; and
 - i. A functional assessment of proposed mitigation to ensure no net loss of shoreline ecological function.

F. *Performance Standards.* Development or clearing activities shall protect the functions of wetlands and wetland buffers on the site. Activities shall result in no net loss of wetland or buffer functions. Protection may be provided by avoiding (the preferred protection) or minimizing and mitigating as described in the general critical areas performance standards.

1. *Wetlands.*

- a. In Category I wetlands only the following activities may be allowed:
 - i. A road, railroad, trail, water, sewer, stormwater conveyance, gas, power, cable, fiber optic or telephone facility that cannot feasibly be located outside of the wetland, that minimizes the impact, and that mitigates for any unavoidable impact to functions. Cost may be considered, but shall not be overriding; or
 - ii. Trails and wildlife viewing structures; provided, that the trails and structures minimize the impact and are constructed so that they do not interfere with wetland hydrology and do not result in increased sediment entering the wetland.

- b. In Category II wetlands only the following activities may be allowed:
 - i. Activities allowed in Category I wetlands.
 - ii. Enhancement and restoration activities aimed at protecting the soil, water, vegetation or wildlife.
 - iii. Within shoreline jurisdiction, water-dependent, water-related or water-enjoyment activities where there are no feasible alternatives that would have a less adverse impact on the wetland, its buffers and other critical areas.
 - iv. Where non-water dependent, related or enjoyment activities are proposed, it shall be presumed that alternative locations are available, and activities and uses shall be prohibited unless the applicant demonstrates that the basic project purpose cannot reasonably be accomplished and successfully avoid or result in less adverse impacts on a wetland on another site or sites in the city of Medical Lake.
- c. In Category III wetlands only the following activities may be allowed:
 - i. Activities allowed in Category II wetlands.
 - ii. Other activities may be allowed if the applicant demonstrates that the basic project purpose cannot reasonably be accomplished and avoid or result in less adverse impacts on a wetland or its buffer than alternative uses or designs (including reduction in the size, scope, configuration or density of the project).
 - iii. Stormwater management facilities. A wetland or its buffer can be physically or hydrologically altered if: 1) there will be no net loss of functions and values of the wetland; 2) the wetland does not contain a breeding population of any native amphibian species; 3) the wetland lies in the natural routing of the runoff, and the discharge follows the natural routing; 4) all local and state stormwater regulations, codes, manuals, and permits are being followed; and 5) all functions and values that are lost will be compensated.
- d. In Category IV wetlands only the following activities may be allowed:
 - i. Activities allowed in Category III wetlands.
 - ii. Activities and uses that result in impacts may be permitted in accordance with an approved critical areas report and mitigation plan if the proposed activity is the only reasonable alternative that will accomplish the applicant's objectives. Full mitigation for the loss of acreage and functions shall be provided under the terms established pursuant to Section 17.10.090.F.2.

2. *Wetland Buffers.*

a. Buffer Requirements. The following buffer widths have been established in accordance with the best available science. They are based on the land use intensity, 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 #14-060-030, or as revised).

b. For high intensity uses, the buffers in Table 17.10.090(3) can be used if the impact measures of Table 17.10.090(5) are implemented.

c. If an applicant chooses not to, or are unable to apply the impact measures of Table 17.10.090(5), then Table 17.10.090(4) must be used.

d. The buffer widths in Tables 17.10.090(2-4) assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided.

e. Buffer widths are measured horizontally from the edge of the wetland:

f. All buffers shall be measured from the wetland boundary as surveyed in the field.

g. Areas which are completely functionally separated from a wetland and do not protect the wetland from adverse impacts may be excluded from buffers otherwise required.

Table 17.10.090(1) LAND USE INTENSITIES

Land Use Intensity	Land Use
High	Commercial, industrial, and institutional uses. Residential uses greater than 1 unit per acre. High-intensity recreation such as golf courses, playgrounds, and ball fields.
Moderate	Residential uses equal to or less than 1 unit per acre. Moderate-intensity recreation such as paved trails. Utility corridors without a maintenance road.
Low	Low-intensity open space including unpaved trails.

Table 17.10.090(2) Buffer widths for Low Intensity Uses

	Buffer width (in feet) based on habitat score			
Wetland Category	3-4	5	6-7	8-9

Category I: Based on total score or Forested	50	60	75	125
Category I: Bogs and Wetlands of High Conservation Value	175			
Category I: Alkali	125			
Category II: Based on total score or Forested	50	60	75	125
Category II: Vernal pool	125			
Category III	40	60	75	125
Category IV	25			

Table 17.10.090(3) Buffer Widths for Medium Intensity Uses or High Intensity Uses that have minimized impacts via Table 17.10.090(5)

	Buffer width (in feet) based on habitat score			
Wetland Category	3-4	5	6-7	8-9
Category I: Based on total score or Forested	75	90	120	150
Category I: Bogs and Wetlands of High Conservation Value	190			
Category I: Alkali	150			
Category II: Based on total score or Forested	75	90	120	150
Category II: Vernal pool	150			
Category III	60	90	120	150
Category IV	40			

Table 17.10.090(4) Buffer Widths for High Intensity Uses

	Buffer width (in feet) based on habitat score			
Wetland Category	3-4	5	6-7	8-9

Category I: Based on total score or Forested	100	130	180	200
Category I: Bogs and Wetlands of High Conservation Value	250			
Category I: Alkali	200			
Category II: Based on total score or Forested	100	130	180	200
Category II: Vernal pool	200			
Category III	80	130	180	200
Category IV	50			

Table 17.10.090(5) Measures to Minimize Impacts on Wetlands

Disturbance	Required Measures to Minimize Impacts
Lights	<ul style="list-style-type: none"> • Direct lights away from wetland
Noise	<ul style="list-style-type: none"> • Locate activity that generates noise away from wetland • 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, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland buffer
Toxic runoff	<ul style="list-style-type: none"> • Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered • Establish covenants limiting use of pesticides within 150' of wetland • Apply integrated pest management
Stormwater runoff	<ul style="list-style-type: none"> • Retrofit stormwater detention and treatment for roads and existing adjacent development • Prevent channelized flow from lawns that directly enters the buffer • Use Low Intensity Development techniques
Change in water regime	<ul style="list-style-type: none"> • Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	<ul style="list-style-type: none"> • Use privacy fencing or plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion • Place wetland and its buffer in a separate tract or protect with a conservation easement
Dust	<ul style="list-style-type: none"> • Use best management practices to control dust

h. *Wetland Buffer Width Averaging.* The buffer width may be modified in accordance with an approved critical areas report on a case-by-case basis by averaging buffer widths. Buffer width averaging shall not be used in combination with a minor exception. Averaging of buffer widths may only be allowed where a qualified professional wetland scientist demonstrates that:

- i. Such averaging will not reduce wetland functions or functional performance; and
- ii. The wetland varies in sensitivity due to existing physical characteristics, or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places; and
- iii. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and
- iv. The buffer width is reduced by no more than twenty-five percent of the standard width and at no point to less than twenty-five feet.

i. *Buffer Maintenance.* Except as otherwise specified or allowed in accordance with this chapter, wetland buffers shall be maintained according to the approved critical areas permit.

G. *Signs and Fencing of Wetlands.*

1. The location of the outer perimeter of the wetland and buffer shall be marked in the field, and such marking shall be approved by the planning official prior to the commencement of permitted activities. Such field markings shall be maintained throughout the duration of the permit.
2. A permanent physical demarcation along the upland boundary of the wetland buffer shall be installed and thereafter maintained. Such demarcation may consist of fencing, hedging or other prominent physical marking that allows wildlife passage, blends with the wetland environment, and is approved by the planning official.
3. Permanent fencing of the wetland buffer on the outer perimeter shall be erected and thereafter maintained when there is a substantial likelihood of the presence of domestic grazing animals within the property unless the planning official determines that the animals would not degrade the functions of the wetland or buffer.
4. Permanent signs shall be posted at an interval of one per lot for single-family residential uses or at a maximum interval of two hundred feet, or as otherwise determined by the planning official, and must be perpetually maintained by the property owner. The sign shall be worded as follows or with alternative language approved by the planning official: "Protected Natural Resource. Call 509-565-5000 for more information."

H. *Compensatory Mitigation*. Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized, and shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with *Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans – Version 1*, (Ecology Publication #06-06-011b, March 2006 or as revised), and *Selecting Wetland Mitigation Sites Using a Watershed Approach (Eastern Washington)* (Publication #10-06-015, August 2012 or as revised).

1. *Mitigation for Lost or Affected Functions*. Compensatory mitigation actions shall address functions affected by the alteration to achieve functional equivalency or improvement, and shall provide similar wetland or buffer functions as those lost, except when:

- a. The lost wetland or buffer provides minimal functions as determined by a site-specific function assessment, and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions shown to be limited within a watershed through a formal Washington State watershed assessment plan or protocol; or
- b. Out-of-kind replacement will best meet formally identified watershed goals, such as replacement of historically diminished wetland types.

2. *Mitigation Actions*.

- a. *Creation*. The manipulation of the physical, chemical or biological characteristics present to develop a wetland on an upland or deepwater site where a biological wetland did not previously exist. Activities typically involve excavation of upland soils to elevations that will produce a wetland hydroperiod, hydric soils, and support the growth of hydrophytic plant species. Creation results in a gain in wetland acres and functions.
- b. *Reestablishment*. The manipulation of the physical, chemical or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Activities could include removing fill material, plugging ditches or breaking drain tiles. Reestablishment results in a gain in wetland acres and functions.
- c. *Rehabilitation*. The manipulation of the physical, chemical or biological characteristics of a site with the goal of repairing natural or historic functions and processes of a degraded wetland. Activities could involve breaching a dike to reconnect wetlands to a floodplain, restoring tidal influence to a wetland, or breaking drain tiles and plugging drainage ditches. Rehabilitation results in a gain in wetland functions but not in wetland acres.
- d. *Enhancement*. The manipulation of the physical, chemical or biological characteristics of a biological wetland to increase or improve specific functions 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. Activities typically consist of planting vegetation, controlling nonnative or invasive species, modifying site elevations to result in

open water ponds, or some combination of these. Enhancement results in a change in certain wetland functions and can lead to a decline in other wetland functions. It does not result in a gain in wetland acres.

3. *Type and Location of Mitigation.* Compensatory mitigation for ecological functions shall be in kind. Compensatory mitigation shall be on site or within the impacted wetland's: (i) contributing area; (ii) stream reach; (iii) sub-watershed; or (iv) watershed. The mitigation site shall be where the greatest level of wetland functions can be achieved. Mitigation actions may be conducted in a different watershed when:

- a. Based on a determination of the natural capacity of the potential mitigation sites to mitigate for the impacts, there are no reasonable on-site or in-watershed opportunities, or those opportunities do not have a high likelihood of success. Consideration shall include: anticipated wetland mitigation replacement ratios, buffer conditions and proposed widths, hydrogeomorphic classes of on-site wetlands when restored, proposed flood storage capacity, and potential to impact riparian fish and wildlife habitat including connectivity; or
- b. Watershed goals for water quality, flood or conveyance, habitat or other wetland functions have been established and strongly justify location of mitigation at another site; or

4. *Mitigation Ratios.*

a. *Replacement Ratios.*

- i. The replacement ratios shall apply to wetland mitigation that: (1) is for the same hydrogeomorphic subclass (e.g., riverine flow-through, depressionnal outflow or flats), and Cowardin class (e.g., palustrine emergent, palustrine forested or estuarine wetlands); (2) is on site; (3) is in the same category; (4) is implemented prior to or concurrent with alteration; and (5) has a high probability of success.
- ii. The replacement ratios are based on replacing the affected wetland with a compensation wetland of the same category, and hydrogeomorphic (HGM) subclass and Cowardin class.
- iii. The replacement ratios do not apply to the use of credits from a state-certified wetland mitigation bank. When credits from a certified bank are used, replacement ratios should be consistent with the requirements of the bank's certification.
- iv. *Mitigation Ratios.* Mitigation ratios are as follows (see Section 17.10.090.H.2 for definitions of mitigation actions):

Table 17.10.090(6) Wetland Mitigation Ratios

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

5. *Mitigation Timing.* The mitigation shall be implemented prior to or concurrent with alterations. If mitigation is implemented after alteration is allowed, the planning official may require additional mitigation to compensate for temporal losses of wetland functions.

6. *Buffers for Mitigation Wetlands.* Refer to Wetland Buffer Tables 17.10.090(2-4).

17.10.100 - Reasonable Use Exceptions.

A. *Exception Request and Review Process.* If the application of this chapter would deny all reasonable economic use of the subject property, the property owner may apply for an exception pursuant to this section through the Critical Areas Permit Process of Section 17.10.040.A.

An application for a reasonable use exception shall be made to the city and 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 (RCW 43.21C).

B. *Reasonable Use Review Criteria.* The city shall approve Critical Areas Permits for reasonable use exceptions when all of the following criteria are met:

1. The application of this chapter would deny all reasonable economic use of the property;
2. No other reasonable economic use of the property has less impact on the critical area;
3. The proposed impact to the critical area is the minimum necessary to allow for reasonable economic use of the property;

4. The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant after the effective date of this chapter, or its predecessor;
5. The proposal does not pose a significant threat to the public health, safety, or welfare on or off the development proposal site;
6. The proposal mitigates for the loss of critical area functions to the greatest extent feasible; and -
7. The proposal is consistent with other applicable regulations and standards.

C. *Burden of Proof.* The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.

17.10.110 - Minor Exceptions.

A. *Minor Exceptions Authorized.* Minor exceptions of no greater than 10% from the standards of this chapter may be authorized through the critical area permit process.

B. *Minor Exception Criteria.* A minor exception from the standards of this chapter may be granted only if the applicant demonstrates that the requested action conforms to all of the following criteria.

1. Unusual conditions or circumstances exist that are peculiar to the intended use, the land, the lot, or something inherent in the land, and that are not applicable to all other lands in the city;
2. The unusual conditions or circumstances do not result from the actions of the applicant;
3. Granting the minor exception requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings under similar circumstances;
4. The minor exception is necessary for the preservation and enjoyment of a substantial property right of the applicant such as is possessed by the owners of other properties in the city;
5. Degradation of the functions (including public health and safety) of the subject critical areas and any other adverse impacts resulting from granting the minor exception will be minimized and mitigated to the extent feasible in accordance with the provision of this chapter;
6. Granting the minor exception will not otherwise be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the subject property;
7. The proposed development complies with all other applicable standards.

C. *Conditions May Be Required.* In granting any minor exception, the city may attach such conditions and safeguards as are necessary to secure adequate protection of critical areas and developments from adverse impacts, and to ensure conformity with this chapter.

D. *Time Limit.* The city shall prescribe a time limit within which the action for which the minor exception is required shall be begun, completed, or both. Failure to begin or complete such action within the established time limit shall void the minor exception.

E. *Burden of Proof.* The burden of proof shall be on the applicant to bring forth evidence in support of the application and upon which any decision has to be made on the application.

17.10.120 - Unauthorized Alterations and Enforcement.

A. *Enforcement.* When a wetland-critical area or its buffer has been altered in violation of this Chapter, all ongoing development work shall stop and the critical area shall be restored. The city shall have the authority to issue a “stop-work” order to cease all ongoing development work and order restoration, rehabilitation, or replacement measures at the owner’s or other responsible party’s expense to compensate for violation of this chapter.

B. *Requirement for Restoration Plan.* In the event the city initiates enforcement action or files a complaint in court, the city may require a restoration plan consistent with the requirements of this chapter. Such a plan shall be prepared by a qualified professional using the best available science and shall describe how the actions proposed meet the minimum requirements described below. The planning official shall, at the violator’s expense, seek expert advice in determining whether the plan restores the affected area to its pre-existing condition or, where that is not possible, restores the functions of the affected area. Inadequate plans shall be returned to the applicant or violator for revision and re-submittal.

C. *Minimum Performance Standards for Restoration.* —For alterations to frequently flooded areas, wetlands, and fish and wildlife habitat conservation areas, the following minimum performance standards shall be met for the restoration of a critical area, provided that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:

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1. The structure and functions of the critical area or buffer prior to violation shall be restored, including water quality and habitat functions;
2. The soil types and configuration prior to violation shall be replicated;
3. The critical area and buffers shall be replanted with native vegetation;
4. Drainage patterns shall be resorted to those existing before the alteration; and
5. Information demonstrating compliance with the requirements in Section 17.10.050.F Mitigation Plan Requirements shall be submitted to the planning official.

D. *Site Investigations*. The planning official is authorized to make site inspections and take such actions as are necessary to enforce this chapter. As a condition of the restoration plan, the applicant shall grant reasonable access to the property.

E. *Noncompliance in Frequently Flooded Areas*. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violations of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction, be subject to enforcement under ~~subsection A~~ of this section. Nothing herein contained shall prevent the city of Medical Lake from taking such other lawful action as is necessary to prevent or remedy any violation.

17.10.130 - Definitions.

Alkali Wetland – A wetland characterized by the presence of shallow saline water with a high PH, as described in *Washington State Wetland Rating System for Eastern Washington: 2014 Update* (Ecology publication #14-06-30, or as revised).

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, channelizing, dredging, clearing of vegetation, construction, compaction, excavation, or any other activity that changes the character of the critical area.

Best Available Science – Current scientific information used in the process to designate, protect, or restore critical areas that is derived from valid scientific process as defined by WAC 365-195-900 through 925.

Best Management Practices – The utilization of methods, techniques, or products which have been demonstrated to be the most effective and reliable for minimizing impacts.

Bog – A low-nutrient, acidic wetland with organic soils and characteristic bog plants, as described in *Washington State Wetland Rating System for Eastern Washington: 2014 Update* (Ecology publication #14-06-30, or as revised).

Buffer – The area contiguous with a critical area that maintains the functions and/or structural stability of the critical area.

Calcareous Fen – An alkaline peat wetland in which the groundwater is typically rich in calcium and magnesium sulfates, as described in *Washington State Wetland Rating System for Eastern Washington: 2014 Update* (Ecology publication #14-06-30, or as revised).

Channel Migration Zone – The area within which a river channel is likely to migrate and occupy over a specified time period (e.g., 100 years).

Clearing – The destruction, disturbance, or removal of logs, scrub-shrub, stumps, trees, or any vegetative material by burning, chemical, mechanical, or other means.

Critical Areas – Critical areas include any of the following areas or ecosystems: fish and wildlife habitat conservation areas, frequently flooded areas, and wetlands, as defined in RCW 36.70A and this chapter.

Creation – The manipulation of the 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 species.

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.

Enhancement – The manipulation of the physical, chemical, or biological characteristics of a critical area 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 critical area function(s) and can lead to a decline in other critical area functions, but does not result in the gain of critical area acres. Examples are planting vegetation, controlling non-native or invasive species, and modifying site elevations to alter hydroperiods.

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 or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors, and areas with high relative population density or species richness. Counties and cities may also designate locally important habitats and species. 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.

Flood Hazard Area – The lands listed in a floodplain which are areas adjacent to a lake, stream, ocean or other body of water lying outside the ordinary band of the water body and periodically inundated by flood flow subject to a one percent or greater expectancy of flooding in any given year.

Floodway – Is the area that has been established in federal emergency management agency flood insurance rate maps or floodway maps.

Frequently Flooded Areas - Lands in the flood plain subject to at least a one percent or greater chance of flooding in any given year, or within areas subject to flooding due to high groundwater. These areas include, but are not limited to, streams, rivers, lakes, coastal areas, wetlands, and areas where high groundwater forms ponds on the ground surface.

Functions and Values – The services provided by critical areas to society, including, but not limited to, improving and maintaining water quality, providing fish and wildlife habitat, supporting terrestrial and aquatic food chains, reducing flooding and erosive flows, wave attenuation, historical or archaeological importance, educational opportunities, and recreation.

Hydric Soil – The soil that is saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

Hydroperiod – The seasonal occurrence of flooding and/or soil saturation which encompasses the depth, frequency, duration and seasonal pattern of inundation.

Hydrophyte – An aquatic plant growing in water or on a substrate (hydric soil) that is at least periodically deficient in oxygen where the saturated soil is too wet for most plants to survive. Examples of these plants are cattails, sedges and bulrush.

Impervious Surface – A surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A non-vegetated surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under pre-development or pre-developed conditions. Common impervious surfaces include, but are limited to, rooftops, walkways, patios, driveways, parking lots, storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater.

In-Kind Compensation – To replace critical areas with substitute areas whose characteristics and functions closely approximate those destroyed or degraded by regulated activity.

Infiltration – The downward entry of water into the immediate surface of soil.

Isolated Wetland – A wetland that is hydrologically isolated from other aquatic resources.

Mature and Old-Growth Forested Wetland – As defined by *Washington State Wetland Rating System for Eastern Washington: 2014 Update* (Ecology publication #14-06-30, or as revised).

Mitigation – Avoiding, minimizing, or compensating for adverse critical area impacts.

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

Native Vegetation – Plant species that occur naturally in a particular region or environment and were present before European colonization.

Ordinary High Water Mark – 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 the respect to vegetation.

Planning Official – The city official appointed or retained by the city to administer to administer and enforce zoning and planning regulations.

Priority Habitat – The seasonal range or habitat element with which a given species is primarily associated and which, if altered, may reduce survival potential of that species over the long term. These may include: habitat areas of high relative density or species richness, breeding habitats, with high vulnerability to alteration.

Priority Species – Species which are of concern due to their population status and sensitivity to habitat alteration. Priority species include those which are state listed as endangered, threatened, or sensitive species as well as other species of concern and game species.

Qualified Professional – A person with expertise in the pertinent scientific discipline directly related to the critical area in question. The qualified professional shall have a minimum of a B.S. or B.A., or equivalent certification, and a minimum of two years of directly related work experience.

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

Rare, Threatened, or Endangered species - Plant or animal species that are regionally relatively uncommon, are nearing endangered status, or whose existence is in immediate jeopardy and that are usually restricted to highly specific habitats.

Reestablishment – The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former critical area. Reestablishment results in rebuilding a former critical area and results in a gain in critical area acres and functions. Activities could include removing fill, plugging ditches, or breaking drain tiles.

Rehabilitation – The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions and processes of a degraded critical area. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or returning tidal influence to a wetland.

Repair or Maintenance – An activity that restores the character, scope, size, and design of 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.

Restoration – Measures taken to restore an altered or damaged natural feature, including: 1) active steps taken to restore damaged wetlands, streams, protected habitat, or their buffers to the functioning condition that existed prior to an unauthorized alteration; and 2) actions performed to reestablish structural and functional characteristics of the critical area that have been lost by alteration, past management activities, or catastrophic events.

Riparian - Relating to or living or located on the bank of a natural watercourse (such as a river) or sometimes of a lake or a tidewater.

Riparian Management Zone – The riparian management zone is defined by the greater of the outermost point of the riparian vegetative community or the pollution removal function, at 100-feet.

Species – Any group of animals or plants classified as a species or subspecies as commonly accepted by the scientific community.

Stream – An area where open surface water produces a defined channel or bed, not including irrigation ditches, canals, storm or surface water runoff devise, or other entirely artificial watercourses, unless they are used by salmonids or are used to convey a watercourse naturally occurring prior to construction. A channel or bed need not contain water year-round, provided there is evidence of at least intermittent flow during years of normal rainfall.

Unavoidable Impacts – Adverse impacts that remain after all appropriate and practicable avoidance and minimization has been achieved.

Vernal Pool – Small depressions in scabrock or in shallow soils that fill with snowmelt or spring rains as described in *Washington State Wetland Rating System for Eastern Washington: 2014 Update* (Ecology publication #14-06-30, or as revised).

Water-Dependent Activity – An activity or use that requires the use of surface water to fulfill the basic purpose of the proposed project.

Wetlands – Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from 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 road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.

Wetland of High Conservation Value – A wetland that has been identified by scientists from the Washington Natural Heritage Program as an important ecosystem for maintaining plant diversity in Washington State.