



**AGENDA
PLANNING COMMISSION
REGULAR MEETING &
PUBLIC HEARINGS
SEPTEMBER 24, 2026, 5:30 PM**

**COMMISSION ATTENDANCE IN PERSON
PUBLIC MAY ATTEND IN PERSON OR REMOTELY VIA
ZOOM**

To better serve our community, we are now offering Live Streaming of our Planning Commission Meetings on our YouTube channel (link is provided below). This will enable citizens who wish to just view the meeting and not participate (provide comments) to do so in the comfort of their homes. Those that wish to provide input during the citizen comment periods may join the meeting as usual via the Zoom link.

- **Join Zoom Meeting**

<https://us06web.zoom.us/j/83173199304?pwd=TCXlBuZk0EeGbqZO2gfuS7XYmjIMmF.1>

Meeting ID: 831 7319 9304

Passcode: 892172

One tap mobile

+12532050468,,83173199304#,,, *892172# US

+12532158782,,83173199304#,,, *892172# US (Tacoma)

Join instructions

https://us06web.zoom.us/meetings/83173199304/invitations?signature=0XBfKyI_pF3qn8zNC1STiw-LQ2PmpTdEVkkGAAyIPM8

- **Watch the Live Stream on YouTube -**

<http://www.youtube.com/@CityofMedicalLake>

WRITTEN PUBLIC COMMENTS

If you wish to provide written public comments for the Planning Commission meeting, please email your comments to erodriguez@medical-lake.org by 2:00 p.m. the day of the commission 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 2:00 p.m. will be provided to the Planning Commission in advance of the meeting.

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

- 1) CALL TO ORDER, PLEDGE OF ALLEGIANCE, AND ROLL CALL**
- 2) APPROVAL OF AGENDA**
- 3) INTERESTED CITIZENS: AUDIENCE REQUESTS AND COMMENTS**
- 4) APPROVAL OF MINUTES**
 - a) August 27, 2026, meeting minutes
- 5) STAFF REPORTS**
- 6) SCHEDULED ITEMS**
- 7) PUBLIC HEARINGS**
 - a) Periodic Update: MLMC amendments regarding Critical Areas
 - b) Periodic Update: Official Zoning Map
- 8) COMMISSION MEMBERS' COMMENTS OR CONCERNS**
- 9) INTERESTED CITIZENS: AUDIENCE REQUESTS AND COMMENTS**
- 10) CONCLUSION**



City of Medical Lake
124 S. Lefevre Street – City Council Chambers
Planning Commission Meeting & Public Hearings
August 27, 2026, Minutes

NOTE: This is not a verbatim transcript. Minutes contain only a summary of the discussion. A recording of the meeting is available on the City of Medical Lake's YouTube channel where meetings are livestreamed.

1) CALL TO ORDER, PLEDGE OF ALLEGIANCE, AND ROLL CALL

- i) Commissioner Veliz called the meeting to order at 5:30pm, led the Pledge of Allegiance, and conducted roll call. Commissioner Twohig was absent, approved last meeting. All other Commissioners were present in person.

2) AGENDA APPROVAL

- a) Motion to approve agenda made by Commissioner Mark, seconded by Commissioner Altheide, carried 4-0.

3) INTERESTED CITIZENS: AUDIENCE REQUESTS AND COMMENTS - none.

4) APPROVAL OF MINUTES – July 23, 2026

- a) Motion to approve made by Commissioner Rowe, seconded by Commissioner Mark, carried 4-0.

5) STAFF REPORTS

- a) Elisa Rodriguez, Senior Planner – spoke on proposed fuel station. Washington State Department of Transportation has reviewed and is not requiring any changes. Shared Washington State Department of Ecology's review. Project is not in the building permit review stage. City Council approved first read of Ordinance 1151, Land Divisions. New pier and dock are in at Coney Island. Grass repair and signage requirements still in process. Once all complete, park will be reopened for public use.

6) SCHEDULED ITEMS

- a) Periodic Update: MLMC amendments regarding Critical Areas
 - i) Ms. Rodriguez reviewed briefing sheet. This is the last of the ten amendment packages for the comprehensive plan. Outlined the critical areas that will be reviewed. All decisions must be based on best available science.

7) PUBLIC HEARINGS

- a) Application LU 2026-026 Shoreline Conditional Use and Variance Review
 - i) Commissioner Veliz opened the public hearing at 5:44pm and read outline of hearing process.
 - ii) Ms. Rodriguez gave a presentation. (see attached).
 - iii) Scott Duncan, Public Works Director and Tom Haggerty, City Engineer representing the Applicant (City of Medical Lake) - explained the need for proposed swales. Had oil water separators in place – late 80's early 90's, worked fine. They no longer meet the need. Goal is to remove 90% of constituents that come off the road and end up in the lake. Bio infiltration swales are the answer to this problem. Extremely clean water will then go into the lake, much more than now. Minimally viable alternatives. This design meets all requirements.
 - iv) Commissioner Veliz reviewed the rules for public comment.
 - v) Opened for public comment.
 - 1. Scott Nishaw – has property where a swale is proposed. Asked for specific depths, etc. Shared concerns about swales and condition of lake. Concerns about lake level fluctuations. Five-minute limit for comment reached. Motion to extend an addition three minutes made by Commissioner Mark, seconded by Commissioner Rowe, carried 4-0. Citizen continued sharing concerns that swale would be too close to the lake due to erosion of shoreline.
 - vi) Chad Pritchard, resident of Medical Lake – lives near where one of the swales will go. He is a Geology Professor at EWU and voiced support and opinion that the swales will be good for the lake. Will help clean up PFAS as well.

- vii) Steve Mauro, resident of Medical Lake – lives on Jefferson. Is the bottom elevation of swales lower or higher than lake? Mr. Haggerty – higher by 2-3 feet. Concern about the geese in the swales if there is standing water. Fencing? No. Mr. Haggerty – swales are required to drain within 72 hours.
- viii) Ms. Rodriguez – reminded Commissioners that the decision must be made based on the approval criteria. Options are to approve as is, approve with changes, or deny.

ix) Commission discussion –

1. Commissioner Altheide appreciates residents that take care of areas, and City is taking steps to make improvements.
2. Commissioner Veliz asked Mr. Haggerty about the life expectancy of the swales. Mr. Haggerty - 20-25 years depending on constituent loading. Will do checks every five years and strip 4-6 inches off the top and replace when needed. Mr. Duncan expounded on maintenance of swales, catch basins, etc. Commissioner Veliz voiced his support.
3. Commissioner Twohig provided the following comments via email: I support the idea of the cleanest Medical Lake possible, and I do believe that stormwater swales are another method that is worth the investment of time and resources. I would suggest eliminating swale #3 on Martin Street. It seems very unfair to surround one property with two swales. Including Swale #3 seems unlikely to improve lake water quality as the swales are very close together. I support the swales - assuming that the final performance and appearance of the swales will add to the quality of life in Medical Lake. We should ask about the final appearance and be sure that these swales will not create eye sores or deteriorate the existing condition of the adjacent properties at each site.

x) Commissioner Veliz closed the hearing at 6:32pm.

xi) Motion to approve application as presented made by Commissioner Altheide, seconded by Commissioner Rowe, carried 4-0.

b) Periodic Update: Comprehensive Plan

i) Commissioner Veliz opened the hearing at 6:34pm and reminded everyone that the hearing rules are still in effect.

ii) Ms. Rodriguez reviewed staff report and process so far. Reviewed proposed changes and recommendations from Department of Commerce. Reviewed options for recommendations to council.

iii) Open for public comment. None

iv) Commission comment– None

v) Commissioner Veliz closed the hearing at 6:47pm.

vi) Motion to recommend approval made by Commissioner Mark, seconded by Commissioner Altheide, carried 4-0.

c) Periodic Update: MLMC amendments regarding Impact Fees

i) Commissioner Veliz opened the hearing at 6:47pm. Rules still in effect.

ii) Ms. Rodriguez reviewed briefing sheet and proposed changes. Reviewed staff report with new code language. Reviewed methodology.

iii) Open for public comment.

1. Chad Pritchard, resident of Medical Lake – support for park impact fees to enhance parks.

Asked about keeping fire impact fee, switching it to FD3. Ms. Rodriguez addressed that it has to come from FD3 and they haven't had a chance to configure.

iv) Commission comments – Commissioner Rowe asked about subdivision approval process. Ms. Rodriguez responded. Discussion about sizes of parks and the Parks Master Plan.

v) Commissioner Veliz closed the hearing at 7:08pm.

vi) Ms. Rodriguez reviewed the three options: recommend to approve as is, approve with changes, or deny.

vii) Motion to recommend approval as is including the methodology report made by Commissioner Altheide, seconded by Commissioner Rowe, carried 4-0.

8) COMMISSION MEMBERS' COMMENTS OR CONCERNS

- a) Commissioner Mark thanked Ms. Rodriguez for checking on noise restriction ordinance and providing information. Commissioner Altheide thanked Ms. Rodriguez for her work on the Comprehensive Plan.

9) INTERESTED CITIZENS: AUDIENCE REQUESTS AND COMMENTS

- a) Chad Pritchard, resident of Medical Lake - thanked everyone for their hard work.

10) CONCLUSION

- a) Motion to conclude at 7:11pm made by Commissioner Mark, seconded by Commissioner Rowe, carried 4-0.

Roxanne Wright, Administrative Clerk

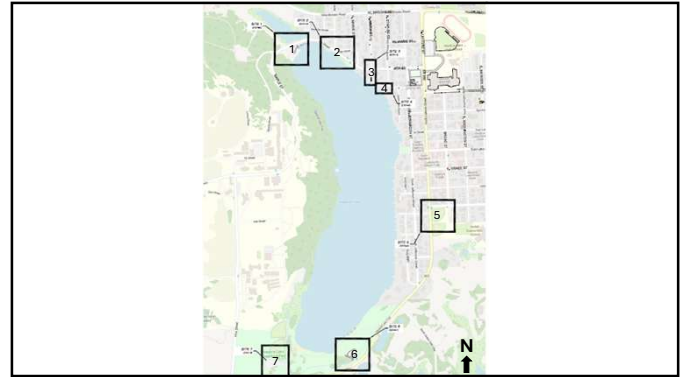
Date

DRAFT

LU 2026-026
Shoreline Conditional Use and
Variance Review

**City of Medical Lake
Stormwater Swales**

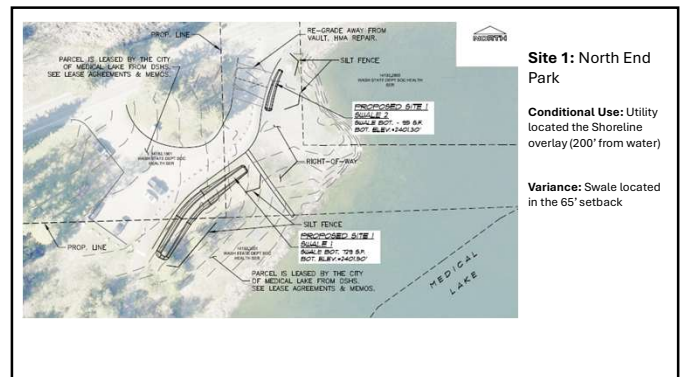
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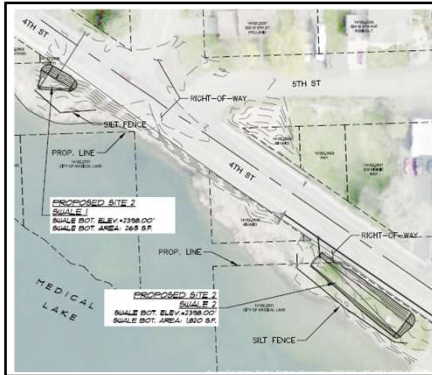
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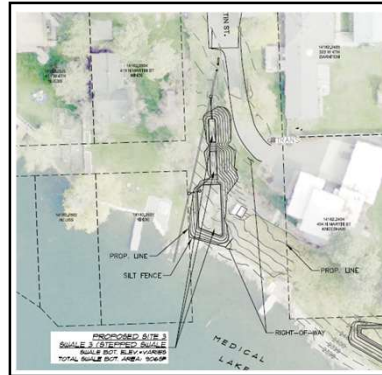


Site 2: Paper Park

Conditional Use: Utility located the Shoreline overlay (200' from water)

Variance: Swale located in the 50' setback

5

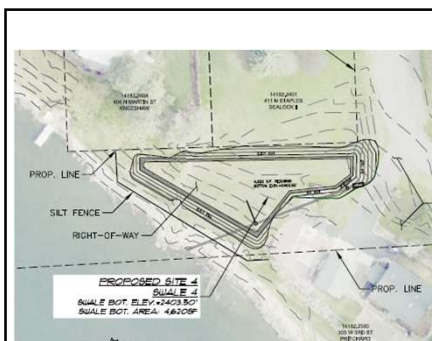


Site 3: Martin Street

Conditional Use: Utility located the Shoreline overlay (200' from water)

Variance: Swale located in the 50' setback

6



Site 4: Third Street

Conditional Use: Utility located the Shoreline overlay (200' from water)

Variance: Swale located in the 50' setback

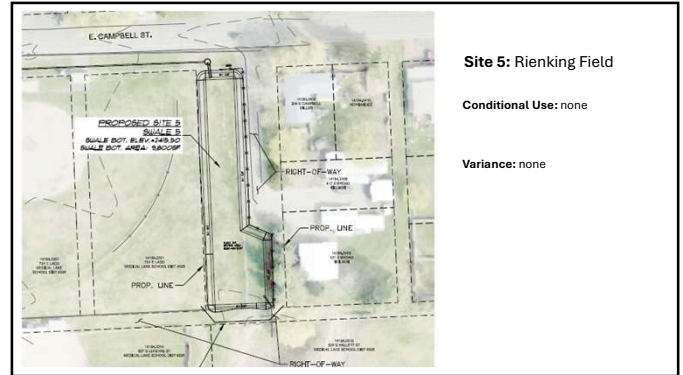
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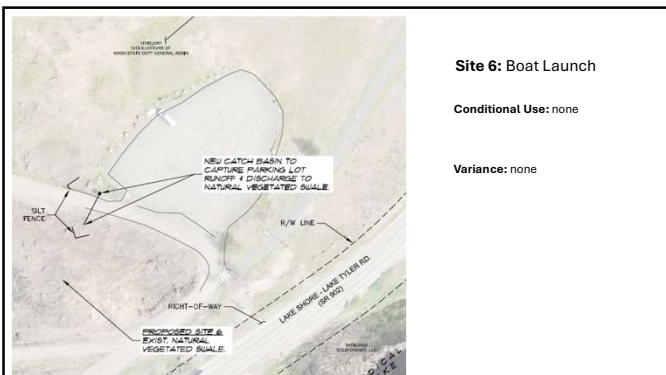


Site 5: Rienking Field

Conditional Use: none

Variance: none

10

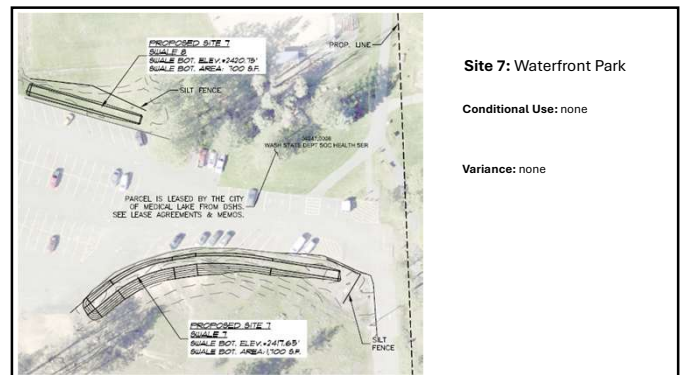


Site 6: Boat Launch

Conditional Use: none

Variance: none

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Site 7: Waterfront Park

Conditional Use: none

Variance: none

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Shoreline Conditional Use Review Approval Criteria:

- A. Consistency with the shoreline policies of the Shoreline Management Act and City Comprehensive Plan.
- B. No interference with the normal public use of public shorelines.
- C. Compatibility of the proposed site use and project design with other permitted uses in the area.
- D. No unreasonably adverse effects on the shoreline environment in which the project would be located.
- E. No substantial detrimental effect on the public interest.

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Shoreline Variance Review Approval Criteria:

- A. The strict bulk, height, dimensional, or performance standard precludes or significantly interferes with a reasonable use of the property that is not otherwise prohibited.
- B. The hardship is specifically related to the property and results from unique conditions such as lot shape, lot size, natural features, or application of the shoreline regulations, rather than deed restrictions or the applicant's own actions.
- C. The project is compatible with other permitted activities and will not cause adverse effects to adjacent properties or the shoreline environment.
- D. The variance will not grant a special privilege unavailable to other properties in the area.
- E. The variance is the minimum necessary to afford relief.
- F. The public interest will suffer no substantial detrimental effect.

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Shoreline Master Program

Purpose:

No net loss of ecological function

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Conclusion:

- The stormwater swales are considered a utility in the Stormwater Master Program.
- Locating swales in the 200' shoreline overlay requires a conditional use review.
- Locating swales in the shoreline setback requires a variance review.
- The swales are the mitigation to ensure no net loss to the ecological value of the lake.

Staff recommends approval with conditions:

Conditions of approval:

1. Substantial conformance.
2. Final Engineering.
3. Minimum necessary encroachment.
4. Construction controls.
5. Vegetation and restoration.
6. Public access and safety.
7. Operations and maintenance.
8. Other approvals.

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Public Comment:

Email from resident at 404 N Martin Street.
Concerns over the size, function, and maintenance of the proposed swales.

Agency Comment:

Department of Ecology:

- Must follow best management practices for erosion and sediment control
- If the Planning Commission approves the Conditional Use and Variance, it must be forwarded to Ecology for approval.
- Concerns over wetlands near the boat launch catch basin and the swale next to Rienking Field.



9/24/2026 Planning Commission Meeting

To: Planning Commission
From: Elisa Rodriguez, Senior Planner
TOPIC: Periodic Update: MLMC amendments regarding Critical Areas

Requested Action:

Hold a public hearing and make a recommendation to City Council for proposed amendments regarding critical areas to the Medical Lake Municipal Code (MLMC).

Key Points:

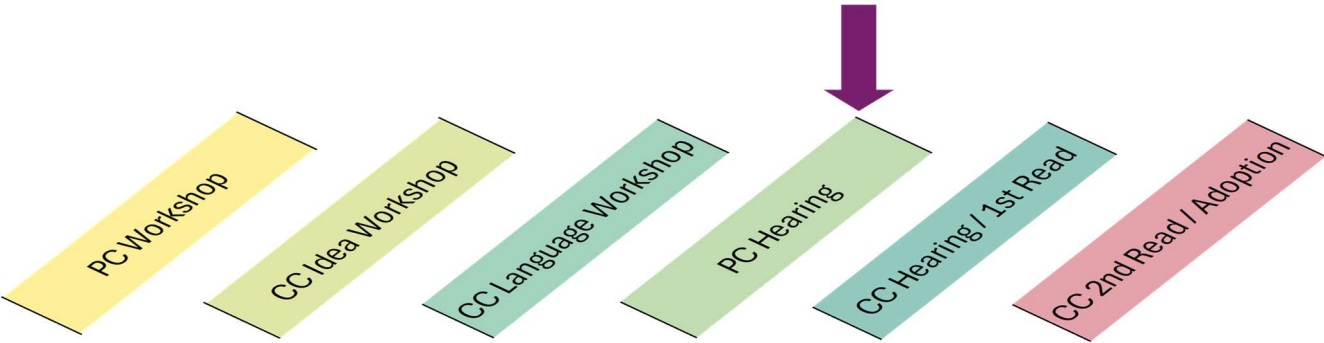
- The proposed amendments address the five categories of critical areas identified under the Washington State Growth Management Act:
 - Wetlands;
 - Frequently flooded areas;
 - Fish and wildlife habitat conservation areas;
 - Geologically hazardous areas; and
 - Critical aquifer recharge areas.
- The amendments would reorganize the City's critical-areas regulations from existing Chapter 17.10 into proposed Chapter 19.810 to align the regulations with Title 19.
- Substantive amendments include new sections addressing critical aquifer recharge areas and geologically hazardous areas, as well as updates to wetland standards based on revised Department of Ecology guidance.
- Additional revisions are intended to improve organization, readability, administration, and implementation.
- The proposed clean chapter and a redlined version of existing Chapter 17.10 are included for comparison.
- The Planning Commission should consider whether the proposed regulations are understandable, internally consistent, administratively workable, and appropriately protective of critical areas.

Background Discussion:

Medical Lake first adopted critical-areas regulations in 1994 and amended them in 2010. The City's current Critical Areas Ordinance is codified in MLMC Chapter 17.10 and was comprehensively updated through Ordinance No. 1108 in March 2023.

The current proposal would reorganize the critical-areas regulations into proposed Chapter 19.810 and incorporate additional amendments identified through the periodic-update process. These include new provisions addressing critical aquifer recharge areas and geologically hazardous areas, updated wetland standards, and revisions intended to improve administration and implementation.

The September 24 Planning Commission public hearing is the fourth step in the City's six-meeting review and adoption process. Following the hearing, the Planning Commission's recommendation will be forwarded to the City Council for consideration.



Public Involvement:

A public hearing is being held with both the Planning Commission (Sept 24) and the City Council (Oct 6). In addition, language will be provided on the City website for review and comment by the public. Members of the public may provide testimony at either public hearing or submit written comments in accordance with the instructions included in the public hearing notice. Comments received will be provided to the applicable decision-making body and included in the legislative record.

Next Steps:

The Planning Commission Recommendation will be presented to the City Council during the public hearing to be held at the October 6, 2026 meeting.



City of Medical Lake Planning Department

124 S. Lefevre St.
Medical Lake, WA 99022
509-565-5000
www.medical-lake.org

STAFF REPORT TO THE PLANNING COMMISSION

File: Periodic Update: MLMC Critical Areas

Date of Staff Report: September 17, 2026

Date of Hearing: September 24, 2026

Staff Planner: Elisa Rodriguez 509-565-5019 or erodriguez@medical-lake.org

SEPA: Determination of Non-Significance was made on August 28, 2026

Procedure: This request requires a legislative review, therefore, the Planning Commission will hold a public hearing and make a recommendation to the City Council. The City Council will hold a public hearing to consider an ordinance to adopt the amendments to the Medical Lake Municipal Code. The complete process can be found in the Medical Lake Municipal Code (MLMC), Section 19.270.050 – Type IV Reviews.

Proposal: It is proposed to amend the Critical Areas Ordinance, also known as Chapter 17.10 of the Medical Lake Municipal Code, to add sections for Critical Aquifer Recharge Areas and Geologically Hazardous Areas, and to update the Wetland standards to conform with the best available science as presented in Department of Ecology guidance.

Summary: The proposed amendments update the City of Medical Lake Critical Areas Ordinance as part of the State Growth Management Act periodic update process. The amendments reorganize the chapter for clarity, add comprehensive regulations for Critical Aquifer Recharge Areas and Geologically Hazardous Areas, and update wetland standards to reflect current Washington Department of Ecology guidance. The amendments are intended to ensure continued protection of critical areas while providing a predictable permitting framework for property owners and development applicants.

PROCEDURAL HISTORY

SEPA DNS Issued – August 28, 2026

Notice of a Public Hearing Published in Cheney Free Press – August 27, 2026

Public Comment Period Closed – September 10, 2026

PROPOSED LANGUAGE

The proposed clean draft of MLMC Chapter 19.810 and a redlined comparison with existing Chapter 17.10 are attached as Exhibits A and B.

PUBLIC COMMENT

The Department of Natural Resources submitted comments regarding geologically hazardous areas. They recommended providing more detail for what is needed in a geologic hazard report and a clearer definition for a qualified professional when it comes to geologic hazards. No other written comments had been received as of the date of this staff report.

ZONING CODE APPROVAL CRITERIA

Amendments to development regulations are subject to MLMC Section 19.143.050 – Approval Criteria.

- A. The proposed amendment(s) implements the goals, policies, and objectives of the Medical Lake Comprehensive Plan.

Findings: The proposed amendments implement Comprehensive Plan goals and policies related to environmental protection, public safety, natural resource stewardship, and compliance with state law. The draft language establishes clear standards for all five categories of critical areas required under the Growth Management Act and provides updated review procedures consistent with current regulatory requirements. **For these reasons, the criterion is met.**

- B. The proposed amendment(s) complies with all requirements of the state's Growth Management Act (GMA, including growth boundaries, critical areas, and future housing needs.)

Findings: The amendments are specifically intended to maintain compliance with the Growth Management Act by addressing wetlands, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, and critical aquifer recharge areas. The regulations incorporate current best available science, provide no-net-loss standards, and establish procedures for mitigation and critical area review. **For these reasons, the criterion is met.**

- C. The proposed amendment(s) does not conflict with the Shoreline Master Program.

Findings: The proposed amendments do not modify shoreline jurisdiction boundaries or shoreline regulations and therefore do not conflict with the Shoreline Master Program. The amendments function as complementary environmental protections that support existing shoreline regulations. **For these reasons, the criterion is met.**

- D. The proposed amendment(s) is consistent with other adopted City plans, including, but not limited to, the Strategic Plan, Capital Facilities Plan, Parks Master Plan, Water Plan, Sewer Plan, Stormwater Plan, and Transportation Plan.

Findings: The amendments are consistent with adopted City plans. Protecting groundwater resources, minimizing geologic hazards, preserving habitat functions, and reducing flood risk support the objectives of the Strategic Plan, Capital Facilities Plan, Water Plan, Sewer Plan, Stormwater Plan, Parks Master Plan, and Transportation Plan. **For these reasons, the criterion is met.**

- E. The proposed amendment(s) will not adversely affect the ability to provide City services in a cost-effective manner.

Findings: The proposed amendments largely update regulatory standards and review procedures and are not expected to require substantial new public facilities or services. Clear standards and mitigation requirements help ensure that future development occurs in a manner that minimizes public costs associated with environmental degradation, flooding, erosion, and infrastructure damage. **For these reasons, the criterion is met.**

- F. The proposed amendment(s) will not be detrimental to and will result in long-term benefits to the community as a whole and is in the public interest.

Findings: The amendments provide long-term community benefits by protecting environmentally sensitive areas, improving public safety, preserving water quality, reducing hazard risks, and maintaining compliance with state law. The regulations balance resource protection with reasonable use provisions and exceptions when justified. **For these reasons, the criterion is met.**

- G. The proposed amendment(s) will not result in adverse impacts to public infrastructure, wetlands, lakes, businesses, or residents.

Findings: The amendments are not anticipated to create adverse impacts to public infrastructure, wetlands, lakes, businesses, or residents. Instead, the updated standards are designed to avoid, minimize, and mitigate impacts to critical areas while providing greater regulatory clarity for property owners and development applicants. **For these reasons, the criterion is met.**

CONCLUSION

Staff finds that the proposed Critical Areas Ordinance amendments are consistent with the Medical Lake Comprehensive Plan, comply with the requirements of the Growth Management Act, are supported by best available science, and are in the public interest. The amendments strengthen protection of critical areas while providing clear and predictable regulations for development review. Staff therefore recommends that the Planning Commission recommend approval of the proposed amendments to the City Council.

POSSIBLE ACTIONS BY THE PLANNING COMMISSION

1. Recommend approval of the proposed amendments to the City Council.
2. Recommend approval of modified amendments to the City Council.
3. Request City Staff to address concerns and return with modified language.

DRAFT Chapter 19.180 CRITICAL AREAS

19.810.010 Purpose.

- A. The purpose of this chapter is to designate and protect critical areas and their functions and values and protect residents from hazards, 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, frequently flooded areas, geologically hazardous areas, and critical aquifer recharge areas.
- C. This chapter implements RCW 36.70A, RCW 36.70B, WAC 365-190, WAC 365-195, WAC 365-196, the goals and policies of the Medical Lake Comprehensive Plan, and other related state and federal laws.

19.810.020 Applicability, jurisdiction, and interpretation

- A. This chapter applies to every land use, development, subdivision, clearing, grading, fill, excavation, vegetation alteration, discharge, structure, facility, and other action that may alter a critical area or buffer, whether or not another City permit is required.
- B. All areas meeting a designation criterion are regulated whether mapped or unmapped. Buffers are part of the regulated critical area system.
- C. When critical areas or buffers overlap, every applicable standard applies. If standards conflict, the provision that provides greater protection to functions, values, and public safety controls, unless preempted by state or federal law.
- D. The Planning Official administers this chapter and may consult agencies or qualified professionals. A map is a screening tool and does not establish the exact boundary.
- E. The applicant is responsible for obtaining all federal, state, and local permits. City approval does not authorize violation of another law.
- F. The standards are minimum requirements and do not create a representation or warranty that hazards are absent or that compliance will prevent all harm.
- G. The provisions of this chapter shall apply whether or not a Critical Area Review, permit, or authorization is required.

19.810.030 Critical area maps and designation

- A. The City designates critical areas by the criteria in this chapter. The most current reasonably available federal, state, regional, county, and City maps and inventories shall be used for screening.
- B. Potential sources include FEMA flood maps; Ecology wetland, groundwater, and flood data; WDFW Priority Habitats and Species data and water typing; DNR geologic hazard, Natural Heritage, and water-type data; Department of Health wellhead protection information; NRCS soils; and local studies.
- C. If screening indicates a critical area may be present on or within the distance likely to be affected by a proposal, the City may require a field investigation and critical area report.
- D. The precise boundary shall be established by field investigation, survey, delineation, or technical analysis. Illegal alteration does not eliminate designation or reduce the required protection.

19.810.040 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 Area Review:

- A. **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:
 - 1. The emergency action uses reasonable methods to address the emergency.
 - 2. The emergency action must have the minimum possible impact to the critical area or its buffer.
 - 3. The property owner, person or agency undertaking such action shall notify the City within one working day following commencement of the emergency activity.
 - 4. 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 Area Review. The alteration, Critical Areas Report, and mitigation plan shall be reviewed by the City in accordance with the review procedures contained in this chapter.
 - 5. 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.
- B. **Hazard Tree.** Emergency or hazard tree removal conducted so that critical area impacts are minimized.
- C. **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.
- D. **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.
- E. **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.
- F. **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

Exhibit A

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.

- G. **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.
- H. 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.
- I. **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 seventy-two hours.
- J. **Agricultural Activities.** Existing and ongoing agricultural activities conducted on lands defined in RCW 84.34.020(2).
- K. **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.
- L. **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.
- M. **Fence Repair.** Maintenance, repair, and in-kind replacement of existing fences.
- N. Those activities and uses conducted pursuant to the Washington State Forest Practices Act and its rules and regulations, WAC 222-12-030.
- O. Maintenance and repair of legally established non-conforming uses or structures, provided they do not increase the degree of nonconformity.

19.810.050 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 Area Review Process of MLMC Section 19.810.080, Approval Process.

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 Area Reviews 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;

Exhibit A

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.

19.810.060 Minor exceptions

- A. Minor Exceptions Authorized. Minor exceptions of no greater than ten percent from the standards of this chapter may be authorized through the Critical Area Review process. No minor exception may reduce a floodway or flood elevation requirement, authorize development posing an unacceptable geologic risk, waive a prohibited CARA use, or reduce a wetland or riparian standard unless a qualified professional demonstrates no net loss of functions and values and consistency with BAS
- 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.

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- 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.

19.810.070 Unauthorized alterations and enforcement.

- A. Enforcement. When a 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:
 - 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 MLMC Section 18.810.090.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 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.

19.810.080 Approval process

A. Critical Area Review Process. A Critical Area Review shall be obtained prior to undertaking any activity or development regulated by this chapter, unless exempted by this chapter.

1. Critical Area Reviews are processed as a Type III review with the planning commission holding a public hearing and the City council making the final decision. The Type III review process is found in MLMC Section 19.270.040, Type III reviews.
2. For a Critical Area Review application to be deemed complete, the following information must be submitted:
 - a. An appropriate City application form;
 - b. A written description of the proposal;
 - c. A site plan;
 - d. All required reports and mitigation plans;
 - e. A written response to all applicable approval criteria;
 - f. A SEPA checklist unless the proposal is exempt from SEPA; and
 - g. The applicable fee.

B. Notice on Title—Covenant and Tracts.

1. Covenants. This section applies to all nonexempt projects that involve critical areas and buffers.
 - a. 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 Spokane County Auditor's Office 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 critical areas 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 Planning 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:

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- 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, 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 a development proposal has required mitigation that is not completed prior to the City final approval, such as final plat approval or final building inspection, the City shall require the applicant to provide security in a form 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 one hundred fifty (150) 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 five 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 thirty 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.

E. 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

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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.

- F. 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).
- G. 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 MLMC Chapter 19.135 - Interpretations and Chapter 19.290 - Appeals.

19.810.090 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 two hundred fifty (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 MLMC Section 19.810.100, 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 MLMC Section 19.810.110, Fish and Wildlife Habitat Conservation Areas; MLMC Section 19.810.120, Critical Aquifer Recharge Areas; MLMC Section 19.810.130,

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Frequently Flooded Areas; MLMC Section 19.810.140, Geologically Hazardous Areas; and MLMC Section 19.810.150, 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 detailed site diagrams, scaled cross section drawings, topographic maps showing slope percentage and final grade elevations, and descriptions of the mitigation proposed, such as:
 - b. The proposed construction sequence, timing, and duration;
 - c. Grading and excavation details;
 - d. Erosion and sediment control features;
 - e. A planting plan specifying plant species, quantities, locations, size, spacing, and density; and
 - f. Measures to protect and maintain plants until established.
 - 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 of less than five years.
 - 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.

19.810.100 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

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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 MLMC Section 19.810.110, Fish and Wildlife Habitat Conservation Areas; MLMC Section 19.810.120, Critical Aquifer Recharge Areas; MLMC Section 19.810.130, Frequently Flooded Areas; MLMC Section 19.810.140, Geologically Hazardous Areas; and MLMC Section 19.810.150, Wetlands.

19.810.110 Fish and wildlife habitat conservation areas

A. Designation.

Designated fish and wildlife habitat conservation areas (FWHCAs) include habitat for state or federally listed endangered, threatened, or sensitive species; Washington State Department of Fish and Wildlife (WDFW) priority habitats and areas associated with priority species; naturally occurring ponds and waters of the state; waters and habitat of local importance designated by the City; and riparian ecosystems.

Water typing and riparian management areas shall use current Washington State Department of Natural Resources (DNR) water-type maps, field verification, WDFW Priority Habitats and Species data, and WDFW Riparian Ecosystems, Volumes 1 and 2 (2020), or successor BAS.

Riparian management-area width shall be established by a qualified biologist using current WDFW BAS and site conditions. Until a site-specific BAS analysis establishes another width, the City shall use the applicable WDFW recommended riparian management-zone width.

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.

B. Additional Critical Area Report Requirements.

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1. A habitat report shall identify species and habitat, seasonal use, connectivity, water type and ordinary high water mark, functions, impacts, agency management recommendations, and protection and monitoring measures.
2. Where a mitigation plan is required as part of the critical area report for a FWHCA 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).
3. If the clearing or development activity is in the riparian management area, the critical area report shall contain the following information, if applicable:
 - 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
 - c. How the proposal will not adversely affect the connectivity of habitat functions.

C. Performance Standards.

1. General. Development shall avoid FWHCAs and maintain habitat connectivity. Where impact is unavoidable, the applicant shall follow current WDFW management recommendations and provide no net loss of habitat functions.
 - a. Development or clearing activities shall protect the functions of the habitat conservation areas on the site. Protection can be provided by avoiding (the preferred protection) or minimizing and mitigating as described in the general critical area approval criteria in MLMC Section 19.810.100, Approval Criteria. Functions include:
 - i. Providing habitat for breeding, rearing, foraging, protection and escape, migration, and over-wintering; 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

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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 twenty 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 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: "Natural Resource Area. Call 509-565-5000 for information."
- 2. Riparian Management Zones. In addition to the standards in MLMC Section 19.810.110.C.1, General Performance Standards, 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.

19.810.120 Critical aquifer recharge areas

- A. Designation. Critical Aquifer Recharge Areas (CARAs) are areas with a critical recharging effect on aquifers used for potable water, including areas vulnerable to contamination or that contribute significantly to groundwater recharge. All land within the City is designated as a general Critical Aquifer Recharge Area because groundwater is used for potable water, available information does not delineate recharge and vulnerability at parcel scale, and contamination prevention is necessary to protect groundwater quality and quantity.
- B. Review Required. A Critical Area Review is required for a new or expanded uses involving: hazardous materials; hazardous waste generation, treatment, storage, or disposal; solid waste handling; underground injection; pollution generating stormwater infiltration; bulk fuel or chemical storage; dry cleaning; vehicle fueling, repair, or washing; mining; landfills; or another use involving another material risk to groundwater.
- C. Additional Critical Area Report Requirements. For those development types listed in MLMC Section 19.810.120.B, Review Required, a hydrogeologic report, prepared by a Washington licensed hydrogeologist, is required as part of the critical area report.
- D. Performance Standards. All land within the city is subject to the following standards:
 - 1. Development and land use activities shall be designed and conducted to prevent degradation of groundwater quality and maintain groundwater recharge functions.
 - 2. Activities involving hazardous substances shall incorporate best management practices and containment measures sufficient to prevent release into groundwater.
 - 3. New underground storage tanks shall comply with all applicable federal and state regulations.
 - 4. Stormwater infiltration facilities shall be designed in accordance with current Washington State Department of Ecology stormwater regulations and manuals.
 - 5. The following activities shall be prohibited unless the applicant demonstrates through a Critical Areas Report that no significant risk to groundwater quality exists:
 - a. Landfills, waste transfer facilities, and hazardous waste treatment facilities;
 - b. Disposal or injection of hazardous substances into the ground; and
 - c. Storage of hazardous materials without secondary containment.

19.810.130 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.

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- 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 Area Report Requirements.** In addition to the critical areas report requirements in MLMC Section 19.810.090, 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 fifty lots or five 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 one 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);

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- 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.

19.810.140 Geologically hazardous areas

- A. Purpose. The purpose of this chapter is to protect public health, safety, and welfare by identifying, classifying, and regulating development activities within and adjacent to geologically hazardous areas. These areas include lands susceptible to erosion, landslides, seismic hazards, mine hazards, volcanic hazards, and other geologic conditions that may pose risks to people, property, infrastructure, and the natural environment.

Geologically hazardous areas shall be identified through a screening process using the best available information, including but not limited to the Medical Lake Geologic Hazards Map, information and mapping published by the Washington State Department of Natural Resources (DNR) and the United States Geological Survey (USGS), Natural Resources Conservation Service (NRCS) soil survey data, LiDAR-derived topographic information, the City's adopted Hazard Mitigation Plan, and site-specific observations or technical studies. The presence of a geologically hazardous area may be established through any one or a combination of these information sources. The absence of a hazard from any map, inventory, database, or other screening resource shall not be interpreted as evidence that a geologic hazard does not exist. Where site-specific evidence indicates the presence of a geologic hazard not otherwise identified by available mapping, the area shall be regulated as a geologically hazardous area pursuant to this chapter.

Table 19.810.140(1)

Hazard Category	Risk	Concern
Erosion	Suspected risk	Highly erodible soils where slope exceeds 15%
Landslide	Risk unknown	Not applicable
Seismic	Risk unknown	Not applicable
Volcanic	Risk unknown	Not applicable
Mining	No known risk	Not applicable

- B. Additional Critical Areas Report Requirements. In addition to the requirements of MLMC Section 19.810.090, Submittal Requirements, any proposal within a Geologically Hazardous Area or its buffer shall submit a geologic hazard report prepared by a qualified professional. The report shall include:
1. A description of site geology, topography, soils, drainage conditions, and vegetation;
 2. Identification and mapping of hazard areas and recommended buffers;
 3. An assessment of risk associated with the proposed development;
 4. Evaluation of the proposal's effect on slope stability and surrounding properties;

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5. Recommendations for construction methods, drainage controls, and erosion prevention measures;
6. Evaluation of potential cumulative impacts;
7. Recommendations for mitigation sufficient to protect public health and safety; and
8. Certification by the qualified professional that the development can be safely constructed if the recommended measures are implemented.

C. Performance Standards.

1. Development shall not create or increase geological hazards on the subject property or neighboring properties.
2. Development shall not increase the threat to public health, safety, or welfare.
3. Alteration of geologically hazardous areas shall be avoided whenever feasible.
4. Where avoidance is not feasible, impacts shall be minimized through site design, construction practices, and mitigation measures.
5. Structures, roads, utilities, and other improvements shall be located outside geologically hazardous areas and buffers whenever feasible.
6. The Planning Official may require buffers based upon recommendations of the qualified professional and site-specific conditions.
7. The following activities are prohibited unless specifically authorized through an approved geologic hazard report:
 - a. Grading that increases slope instability;
 - b. Placement of fill on unstable slopes;
 - c. Removal of vegetation that contributes significantly to slope stability;
 - d. Diversion of surface or groundwater in a manner that increases hazard potential; and
 - e. Construction that poses unreasonable risk to life or property.
8. Drainage facilities shall be designed to avoid concentrating runoff onto slopes or hazard areas.
9. Erosion and sediment control measures shall be installed before land-disturbing activities commence and maintained throughout construction.
10. Development within a geologically hazardous area may be approved only when a qualified professional demonstrates that:
 - a. The proposal will not increase hazards to the site or adjacent properties;
 - b. The proposal will not increase risk to life or property;
 - c. Appropriate mitigation measures have been incorporated into the project design; and

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- d. The proposal complies with all other applicable provisions of this chapter.
- 12. The city may require monitoring, maintenance, geotechnical certification, or financial assurance when necessary to ensure long-term protection of public health, safety, and property.

19.810.150 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. Identification and Delineation. Identification of wetlands and delineation of their boundaries pursuant to this Chapter shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplement. All areas within the City meeting the wetland definition and designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this Chapter. Wetland delineations are valid for five years; after such date the City shall determine whether a revision or additional assessment is necessary. Wetland delineations will be documented on a ground-verified map using either professional surveying methods or an equivalent professional method using GPS with sub-meter accuracy.
- 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). Wetland ratings are valid for five years; after such date the City shall determine whether a revision or additional rating is necessary.
- E. Illegal modifications. Wetland rating categories shall not change due to illegal modifications made to the wetland.
- F. Land Divisions. Land that is located wholly within a wetland and/or wetland buffer may not be subdivided
- G. 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;

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- 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.
- H. 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.

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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:
 - There will be no net loss of functions and values of the wetland;
 - The wetland does not contain a breeding population of any native amphibian species;
 - The wetland lies in the natural routing of the runoff, and the discharge follows the natural routing;
 - All local and state stormwater regulations, codes, manuals, and permits are being followed; and
 - 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 MLMC Section 19.810.150.F.2, Wetland Buffers.

2. Wetland Buffers.

- a. Buffer Requirements. The following buffer tables have been established in accordance with the best available science. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the Washington

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State Wetland Rating System for Eastern Washington; 2014 Update (Ecology Publication #14-60-030, or as revised).

Table 19.810.150(1). Wetland buffer width requirements, in feet, if Table 3 is implemented and a habitat corridor is provided.

Category of Wetland	Habitat Score 3-5 points (corridor not required)	Habitat Score 6-7 points	Habitat Score 8-9 points
Category I & II: Based on rating of wetland functions (and not listed below)	75	110	150
Category I & II: Forested	75	110	150
Category I: Bogs, calcareous fens, and Wetlands of High Conservation Value	190	190	190
Category I: Alkali	150	150	150
Category II: Vernal pool	150	150	150
Category III	60	110	150
Category IV	40	40	40

Table 19.810.150(2). Wetland buffer width requirements, in feet, for applicants not providing a habitat corridor or implementing measure in Table 3.

Category of Wetland	Habitat Score 3-5 points (corridor not required)	Habitat Score 6-7 points	Habitat Score 8-9 points
Category I & II: Based on rating of wetland functions (and not listed below)	100	150	200
Category I & II: Forested	100	150	200
Category I: Bogs, calcareous fens, and Wetlands of High Conservation Value	190	190	190
Category I: Alkali	150	150	150
Category II: Vernal pool	150	150	150
Category III	80	150	200
Category IV	50	50	50

- b. **Impact Mitigation Measures.** Developments that produce the listed disturbances and are requesting a buffer reduction are required to address the disturbance through the use of applicable minimization measures.

This is not a complete list of measures, nor is every example measure required. Though not every measure is required, all effort should be made to implement as many

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measures as possible. The decision body should determine, in coordination with the applicant, which measures are applicable and practicable.

Table 19.810.150(3). Impact Mitigation Measures.

Examples of disturbance	Activities and uses that cause disturbances	Examples of measures to minimize impacts
Lights	• Parking lots • Commercial/Industrial • Residential • Recreation (e.g., athletic fields) • Agricultural buildings	• Direct lights away from wetland • Only use lighting where necessary for public safety and keep lights off when not needed • Use motion-activated lights • Use full cut-off filters to cover light bulbs and direct light only where needed • Limit use of blue-white colored lights in favor of red-amber hues • Use lower-intensity LED lighting • Dim light to the lowest acceptable intensity
Noise	• Commercial • Industrial • Recreation (e.g., athletic fields, bleachers, etc.) • Residential • Agriculture	• Locate activity that generates noise away from wetland • Construct a fence to reduce noise impacts on adjacent wetland and buffer • Plant a strip of dense shrub vegetation adjacent to wetland buffer
Toxic runoff	• Parking lots • Roads • Commercial/industrial • Residential areas • Application of pesticides • Landscaping • Agriculture	• Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered • Establish covenants limiting use of pesticides within 150 ft. of wetland • Apply integrated pest management (Note: These examples are not necessarily adequate for minimizing toxic runoff if threatened or endangered species are present at the site.)
Stormwater runoff	• Parking lots • Roads • Residential areas • Commercial/industrial • Recreation • Landscaping/lawns • Other impermeable surfaces, compacted soil, etc.	• Retrofit stormwater detention and treatment for roads and existing adjacent development • Prevent channelized or sheet flow from lawns that directly enters the buffer • Infiltrate or treat, detain, and disperse new runoff from impervious surfaces and lawns
Pets and human disturbance	• Residential areas • Recreation	• Use privacy fencing

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		• Plant dense native vegetation to delineate buffer edge and to discourage disturbance • Place wetland and its buffer in a separate tract • Place signs around the wetland buffer every 50-200 ft., and for subdivisions place signs at the back of each residential lot • When platting new subdivisions, locate greenbelts, stormwater facilities, or other lower-intensity land uses adjacent to wetland buffers
Dust	• Tilled fields • Roads	• Use best management practices to control dust

- c. **Habitat Corridors.** For wetlands that score 6 points or more for habitat function, the buffers in Table 1 can be used only if all of the following criteria are met:
- i. A relatively undisturbed, vegetated corridor at least 100 feet wide is protected between the wetland and:
 - A legally protected, relatively undisturbed and vegetated area (e.g., Priority Habitats, compensatory mitigation sites, wildlife areas/refuges, national, county, and state parks where they have management plans with identified areas designated as Natural, Natural Forest, or Natural Area Preserve, or
 - An area that is the site of a Watershed Project identified within, and fully consistent with, a Watershed Plan as defined by RCW 89-08-460, or
 - An area where development is prohibited according to the provisions of the local shoreline master program, or
 - An area with equivalent habitat quality that has conservation status in perpetuity, in consultation with WDFW.
 - ii. The corridor is permanently protected for the entire distance between the wetland and the shoreline or legally protected area by a conservation easement, deed restriction, or other legal means.
 - iii. Presence or absence of the shoreline or Priority Habitat must be confirmed by a qualified biologist or shoreline Administrator.
 - iv. The measures in Table 3 are implemented, as applicable, to minimize the impacts of the adjacent land uses.
- d. **Buffer Vegetation.** The buffer widths in Tables 1 and 2 assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is un-vegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer must either be planted to create the appropriate native plant community or be widened to ensure that the buffer provides adequate functions to protect the wetland.

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- e. **Measurement.** All buffers shall be measured perpendicular from the wetland boundary as delineated in the field.
- f. **Functionally Disconnected Buffer Areas.** 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.
- g. **Allowed Buffer Uses.** The following uses may be allowed within a wetland buffer in accordance with the review procedures of this Chapter, provided they are not prohibited by any other applicable law, and they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:
 - i. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.
 - ii. Passive recreation facilities designed in accordance with an approved critical area report, including:
 - Walkways and trails, provided that they are limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer twenty-five percent (25%) of the wetland buffer area, and located to avoid removal of mature trees. They should be limited to pervious surfaces no more than five (5) feet in width and designed for pedestrian use only. Raised boardwalks utilizing nontreated pilings may be acceptable.
 - Wildlife-viewing structures.
 - iii. Educational and scientific research activities. Publication 22-06-014 Appendix A. Sample Wetland Regulations Page A-11 October 2022
 - iv. Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way, provided that the maintenance or repair does not increase the footprint or use of the facility or right-of-way.
 - v. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.
 - vi. Drilling for utilities/utility corridors under a buffer, with entrance/exit portals located completely outside of the wetland buffer boundary, provided that the drilling does not alter the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column would be disturbed.
 - vii. Enhancement of a wetland buffer through the removal of non-native, invasive plant species. Removal of invasive plant species shall be restricted to hand removal. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds should be handled and disposed of according to a noxious weed control plan appropriate to that species.

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

- viii. Maintenance and repair of legally established non-conforming uses or structures, provided they do not increase the degree of nonconformity.
 - 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 at its narrowest point is never less than either 75 percent of the required width or 75 feet for Category I and II, 50 feet for Category III, and 25 feet for Category IV, whichever is greater.
 - i. Buffer Maintenance. Except as otherwise specified or allowed in accordance with this chapter, wetland buffers shall be maintained according to the approved Critical Area Review.
- I. 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. Fences shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes impacts to the wetland and associated habitat.
 - 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."

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- J. **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

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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:
 - Is for the same hydrogeomorphic subclass (e.g., riverine flow-through, depressional outflow or flats), and Cowardin class (e.g., palustrine emergent, palustrine forested or estuarine wetlands);
 - Is on site;
 - Is in the same category;
 - Is implemented prior to or concurrent with alteration; and
 - 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 MLMC Section 19.810.150.J.2, Mitigation Actions, for definitions of mitigation actions):

Table 19.810.150(3) Wetland Mitigation Ratios

Category and Type of Wetland	Creation or Re-establishment	Rehabilitation	Enhancement
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

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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

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

19.810.160 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., one hundred 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 aquifer recharge areas - Areas with a critical recharging effect on aquifers used for potable water, including areas where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water, or is susceptible to reduced recharge.

Critical Areas - Critical areas include any of the following areas or ecosystems: fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, critical aquifer recharge 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

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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.

Geologically Hazardous Areas - Areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

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

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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.

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.

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, Geologic – A Washington-licensed geologist, engineering geologist, hydrogeologist, or geotechnical engineer with demonstrated experience evaluating the specific hazard involved.

Qualified Professional, Wetlands - A professional wetland scientist with at least two years of full-time work experience as wetland professional, including delineating wetlands using the federal

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manual and supplements, preparing wetlands reports, conducting function assessments, and developing implementing mitigation plans.

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.

Maintenance and Repair. Routine, periodic, corrective, preventative, or restorative work performed on a lawfully established building, structure, site improvement, utility system, infrastructure component, landscaped area, or property in order to preserve, sustain, restore, or maintain its existing use, configuration, appearance, capacity, and function.

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 one hundred 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

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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.

DRAFT

Draft Amendments to 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 and, protect residents from hazards, 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, geologically hazardous areas, and critical aquifer recharge areas.
- C. This chapter implements RCW 36.70A, RCW 36.70B, WAC 365-190, WAC 365-195, WAC 365-196, the goals and policies of the Medical Lake Comprehensive Plan, ~~under the Washington Growth Management Act~~ and other related state and federal laws.

Applicability, jurisdiction, and interpretation

- A. This chapter applies to every land use, development, subdivision, clearing, grading, fill, excavation, vegetation alteration, discharge, structure, facility, and other action that may alter a critical area or buffer, whether or not another City permit is required.
- B. All areas meeting a designation criterion are regulated whether mapped or unmapped. Buffers are part of the regulated critical area system.
- C. When critical areas or buffers overlap, every applicable standard applies. If standards conflict, the provision that provides greater protection to functions, values, and public safety controls, unless preempted by state or federal law.
- D. The Planning Official administers this chapter and may consult agencies or qualified professionals. A map is a screening tool and does not establish the exact boundary.
- E. The applicant is responsible for obtaining all federal, state, and local permits. City approval does not authorize violation of another law.
- F. The standards are minimum requirements and do not create a representation or warranty that hazards are absent or that compliance will prevent all harm.
- G. The provisions of this chapter shall apply whether or not a Critical Area Review, permit, or authorization is required.

Critical area maps and designation

- A. The City designates critical areas by the criteria in this chapter. The most current reasonably available federal, state, regional, county, and City maps and inventories shall be used for screening.
- B. Potential sources include FEMA flood maps; Ecology wetland, groundwater, and flood data; WDFW Priority Habitats and Species data and water typing; DNR geologic hazard, Natural Heritage, and water-type data; Department of Health wellhead protection information; NRCS soils; and local studies.
- C. If screening indicates a critical area may be present on or within the distance likely to be affected by a proposal, the City may require a field investigation and critical area report.
- D. The precise boundary shall be established by field investigation, survey, delineation, or technical analysis. Illegal alteration does not eliminate designation or reduce the required protection.

~~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~~Exemptions.

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~~Critical Area Review:

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.

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- c. The property owner, person or agency undertaking such action shall notify the ~~city~~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~~Critical Area Review. The alteration, Critical Areas Report, and mitigation plan shall be reviewed by the ~~city~~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:
 - a. Fueling and maintenance take place outside the critical area and buffer;
 - b. All cleared vegetation is taken away and disposed of properly; and
 - c. 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 seventy-two 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.

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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~~Critical Area Review Process. A Critical Area Review shall be obtained prior to undertaking any activity or development regulated by this chapter, unless exempted by this chapter.
 1. Critical ~~area~~Area ~~reviews~~Reviews are processed as a Type III review with the planning commission holding a public hearing and the ~~city~~City council making the final decision. The Type III review process is found in MLMC Section 19.270.040, Type III reviews.
 2. For a ~~critical-area permit~~Critical Area Review application to be deemed complete, the following information must be submitted:
 - a. An appropriate ~~city~~City application form;
 - b. A written description of the proposal;
 - c. A site plan;
 - d. All required reports and mitigation plans;
 - e. A written response to all applicable approval criteria;
 - f. A SEPA checklist unless the proposal is exempt from SEPA; and
 - g. The applicable fee.
- 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~~Spokane County Auditor's Office according to the direction of the ~~city~~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~~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,~~critical areas 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.

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- 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 planning 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 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."
- C. Financial Assurances.
1. When ~~mitigation required pursuant to~~ a development proposal has required mitigation that is not completed prior to the cityCity final ~~permit~~ approval, such as final plat approval or final building inspection, the cityCity shall require the applicant to provide security in a form ~~and amount~~ deemed acceptable by the cityCity. ~~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 one hundred ~~twenty-five~~ fifty (150) 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 five years or until the cityCity 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 thirty days after it is due or comply with other provisions of an approved mitigation plan shall constitute a default, and the cityCity may demand payment of any financial guarantees or require other action authorized by the cityCity 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 cityCity, state, and federal agency review staff for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period.

- E. 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 MLMC Chapter 19.135 - Interpretations and Chapter 19.290 - Appeals.

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 two hundred fifty (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 17.10.075, Critical Aquifer Recharge Areas, Section 17.10.080, frequently flooded areas, Section 17.10.085, Geologically Hazardous 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 cityCity 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.

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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 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 years.

When the applicant believes that the conditions of the monitoring plan are met, the applicant shall contact the [cityCity](#) and request that the [cityCity](#) verify and certify so in writing. The [cityCity](#) 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 [cityCity](#) 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 [cityCity](#) 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.

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- 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, Critical Recharge Aquifer Areas Section 17.10.075.D, frequently flooded areas, section 17.10.080.D, Geologically Hazardous Areas Section 17.10.085.C, and wetlands Section 17.10.090.F, as applicable.

17.10.070 Fish and wildlife habitat conservation areas.

A. Designation.

Designated fish and wildlife habitat conservation areas (FWHCAs) include habitat for state or federally listed endangered, threatened, or sensitive species; Washington State Department of Fish and Wildlife (WDFW) priority habitats and areas associated with priority species; naturally occurring ponds and waters of the state; waters and habitat of local importance designated by the City; and riparian ecosystems.

Water typing and riparian management areas shall use current Washington State Department of Natural Resources (DNR) water-type maps, field verification, WDFW Priority Habitats and Species data, and WDFW Riparian Ecosystems, Volumes 1 and 2 (2020), or successor BAS.

Riparian management-area width shall be established by a qualified biologist using current WDFW BAS and site conditions. Until a site-specific BAS analysis establishes another width, the City shall use the applicable WDFW recommended riparian management-zone width.

- ~~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 and 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.~~

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~~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 habitat report shall identify species and habitat, seasonal use, connectivity, water type and ordinary high water mark, functions, impacts, agency management recommendations, and protection and monitoring measures.~~

~~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.~~

~~2. In addition to the standards of Section 17.10.050.B, where~~ Where ~~a mitigation plan is required as part of the critical areas report for a fish and wildlife habitat conservation area~~ FWHCA ~~that involves a water body, riparian management area or riparian buffer, the monitoring program protocol shall include where relevant to the impacted functions:~~

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

~~3. 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. a.~~ a. How the clearing or development activity constitutes a water-dependent, water-related or water-enjoyment use; or
- ~~b. b.~~ b. How the clearing or development activity cannot feasibly be located on the site outside of the riparian management area; and
- ~~c. c.~~ c. How the proposal will not adversely affect the connectivity of habitat functions.

C. Performance Standards.

1. General. Development shall avoid FWHCAs and maintain habitat connectivity. Where impact is unavoidable, the applicant shall follow current WDFW management recommendations and provide no net loss of habitat functions.

- 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 over-wintering; and
 - ii. Providing complexity of physical structure, supporting biological diversity, regulating stormwater runoff and infiltration, removing pollutants from water, and maintaining appropriate temperatures.

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- 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 twenty 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 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: "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.

17.10.075 – Critical Aquifer Recharge Areas

A. Designation.

Critical Aquifer Recharge Areas (CARAs) are areas with a critical recharging effect on aquifers used for potable water, including areas vulnerable to contamination or that contribute significantly to groundwater recharge. All land within the City is designated as a general Critical Aquifer Recharge Area because groundwater is used for

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potable water, available information does not delineate recharge and vulnerability at parcel scale, and contamination prevention is necessary to protect groundwater quality and quantity.

B. Review Required

A Critical Area Review is required for a new or expanded uses involving: hazardous materials; hazardous waste generation, treatment, storage, or disposal; solid waste handling; underground injection; pollution generating stormwater infiltration; bulk fuel or chemical storage; dry cleaning; vehicle fueling, repair, or washing; mining; landfills; or another use involving another material risk to groundwater.

C. Additional Critical Area Report Requirements.

For those development types listed in 17.10.075, a hydrogeologic report, prepared by a Washington licensed hydrogeologist, is required as part of the critical area report.

D. Performance Standards.

All land within the city is subject to the following standards:

1. Development and land use activities shall be designed and conducted to prevent degradation of groundwater quality and maintain groundwater recharge functions.
2. Activities involving hazardous substances shall incorporate best management practices and containment measures sufficient to prevent release into groundwater.
3. New underground storage tanks shall comply with all applicable federal and state regulations.
4. Stormwater infiltration facilities shall be designed in accordance with current Washington State Department of Ecology stormwater regulations and manuals.
5. The following activities shall be prohibited unless the applicant demonstrates through a Critical Areas Report that no significant risk to groundwater quality exists:
 - a. Landfills, waste transfer facilities, and hazardous waste treatment facilities;
 - b. Disposal or injection of hazardous substances into the ground; and
 - c. Storage of hazardous materials without secondary containment.

17.10.080 Frequently flooded areas.

This section shall apply to all special flood hazard areas within the boundaries of the CityCity 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 CityCity 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.

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- 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 fifty lots or five 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 one 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.

17.10.085 – Geologically Hazardous Areas

A. Purpose.

The purpose of this chapter is to protect public health, safety, and welfare by identifying, classifying, and regulating development activities within and adjacent to geologically hazardous areas. These areas include lands susceptible to erosion, landslides, seismic hazards, mine hazards, volcanic hazards, and other geologic conditions that may pose risks to people, property, infrastructure, and the natural environment.

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Geologically hazardous areas shall be identified through a screening process using the best available information, including but not limited to the Medical Lake Geologic Hazards Map, information and mapping published by the Washington State Department of Natural Resources (DNR) and the United States Geological Survey (USGS), Natural Resources Conservation Service (NRCS) soil survey data, LiDAR-derived topographic information, the City's adopted Hazard Mitigation Plan, and site-specific observations or technical studies. The presence of a geologically hazardous area may be established through any one or a combination of these information sources. The absence of a hazard from any map, inventory, database, or other screening resource shall not be interpreted as evidence that a geologic hazard does not exist. Where site-specific evidence indicates the presence of a geologic hazard not otherwise identified by available mapping, the area shall be regulated as a geologically hazardous area pursuant to this chapter.

<u>Hazard Category</u>	<u>Risk</u>	<u>Concern</u>
<u>Erosion</u>	<u>Suspected risk</u>	<u>Highly erodible soils where slope exceeds 15%</u>
<u>Landslide</u>	<u>Risk unknown</u>	<u>Not applicable</u>
<u>Seismic</u>	<u>Risk unknown</u>	<u>Not applicable</u>
<u>Volcanic</u>	<u>Risk unknown</u>	<u>Not applicable</u>
<u>Mining</u>	<u>No known risk</u>	<u>Not applicable</u>

B. Additional Critical Areas Report Requirements.

In addition to the requirements of Section 17.10.050, any proposal within a Geologically Hazardous Area or its buffer shall submit a geologic hazard report prepared by a qualified professional.

The report shall include:

1. A description of site geology, topography, soils, drainage conditions, and vegetation;
2. Identification and mapping of hazard areas and recommended buffers;
3. An assessment of risk associated with the proposed development;
4. Evaluation of the proposal's effect on slope stability and surrounding properties;
5. Recommendations for construction methods, drainage controls, and erosion prevention measures;
6. Evaluation of potential cumulative impacts;
7. Recommendations for mitigation sufficient to protect public health and safety; and
8. Certification by the qualified professional that the development can be safely constructed if the recommended measures are implemented.

C. Performance Standards.

1. Development shall not create or increase geological hazards on the subject property or neighboring properties.
2. Development shall not increase the threat to public health, safety, or welfare.
3. Alteration of geologically hazardous areas shall be avoided whenever feasible.
4. Where avoidance is not feasible, impacts shall be minimized through site design, construction practices, and mitigation measures.
5. Structures, roads, utilities, and other improvements shall be located outside geologically hazardous areas and buffers whenever feasible.

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6. The planning official may require buffers based upon recommendations of the qualified professional and site-specific conditions.
7. The following activities are prohibited unless specifically authorized through an approved geologic hazard report:
 - a. Grading that increases slope instability;
 - b. Placement of fill on unstable slopes;
 - c. Removal of vegetation that contributes significantly to slope stability;
 - d. Diversion of surface or groundwater in a manner that increases hazard potential; and
 - e. Construction that poses unreasonable risk to life or property.
8. Drainage facilities shall be designed to avoid concentrating runoff onto slopes or hazard areas.
9. Erosion and sediment control measures shall be installed before land-disturbing activities commence and maintained throughout construction.
10. Development within a geologically hazardous area may be approved only when a qualified professional demonstrates that:
 - a. The proposal will not increase hazards to the site or adjacent properties;
 - b. The proposal will not increase risk to life or property;
 - c. Appropriate mitigation measures have been incorporated into the project design; and
 - d. The proposal complies with all other applicable provisions of this chapter.
11. The city may require monitoring, maintenance, geotechnical certification, or financial assurance when necessary to ensure long-term protection of public health, safety, and property.

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. Identification and Delineation. Identification of wetlands and delineation of their boundaries pursuant to this Chapter shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplement. All areas within the City meeting the wetland definition and designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this Chapter. Wetland delineations are valid for five years; after such date the City shall determine whether a revision or additional assessment is necessary. Wetland delineations will be documented on a ground-verified map using either professional surveying methods or an equivalent professional method using GPS with sub-meter accuracy.~~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). Wetland ratings are valid for five

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~~years; after such date the City shall determine whether a revision or additional rating is necessary. 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:~~

E. Illegal modifications. Wetland rating categories shall not change due to illegal modifications made to the wetland.

~~1. Category I wetlands are:~~

- ~~a. Alkali wetlands;~~
- ~~b. Wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR;~~
- ~~c. Bogs and calcareous fens;~~
- ~~d. Mature and old-growth forested wetlands over one-fourth acre with slow-growing trees;~~
- ~~e. Forests with stands of aspen; and~~
- ~~f. Wetlands that perform many functions well (scores between twenty-two and twenty-seven). These wetlands are those that:~~
 - ~~i. Represent a unique or rare wetland type; or~~
 - ~~ii. Are more sensitive to disturbance than most wetlands; or~~
 - ~~iii. Are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or~~
 - ~~iv. Provide a high level of function.~~

~~2. Category II wetlands are:~~

- ~~a. Forested wetlands in the floodplains of rivers;~~
- ~~b. Mature and old-growth forested wetlands over one-fourth acre with fast-growing trees;~~
- ~~c. Vernal pools; and~~
- ~~d. Wetlands that perform functions well (scores between nineteen and twenty-one 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 sixteen and eighteen points). They generally have been disturbed in some way and are less diverse or more isolated from other natural resources. These wetlands can often be adequately replaced with well-planned mitigation.~~

~~4. Category IV wetlands have the lowest levels of functions (scores fewer than sixteen 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.~~

F. Land Divisions. Land that is located wholly within a wetland and/or wetland buffer may not be subdivided

EG. 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;

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- 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.

FH. 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:

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- 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~~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:
 - (A) There will be no net loss of functions and values of the wetland;
 - (B) The wetland does not contain a breeding population of any native amphibian species;
 - (C) The wetland lies in the natural routing of the runoff, and the discharge follows the natural routing;
 - (D) All local and state stormwater regulations, codes, manuals, and permits are being followed; and
 - (E) 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-tables~~ 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).

Table 1. Wetland buffer width requirements, in feet, if Table 3 is implemented and a habitat corridor is provided.

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<u>Category of Wetland</u>	<u>Habitat Score 3-5 points (corridor not required)</u>	<u>Habitat Score 6-7 points</u>	<u>Habitat Score 8-9 points</u>
<u>Category I & II: Based on rating of wetland functions (and not listed below)</u>	<u>75</u>	<u>110</u>	<u>150</u>
<u>Category I & II: Forested</u>	<u>75</u>	<u>110</u>	<u>150</u>
<u>Category I: Bogs, calcareous fens, and Wetlands of High Conservation Value</u>	<u>190</u>	<u>190</u>	<u>190</u>
<u>Category I: Alkali</u>	<u>150</u>	<u>150</u>	<u>150</u>
<u>Category II: Vernal pool</u>	<u>150</u>	<u>150</u>	<u>150</u>
<u>Category III</u>	<u>60</u>	<u>110</u>	<u>150</u>
<u>Category IV</u>	<u>40</u>	<u>40</u>	<u>40</u>

Table 2. Wetland buffer width requirements, in feet, for applicants not providing a habitat corridor or implementing measure in Table 3.

<u>Category of Wetland</u>	<u>Habitat Score 3-5 points (corridor not required)</u>	<u>Habitat Score 6-7 points</u>	<u>Habitat Score 8-9 points</u>
<u>Category I & II: Based on rating of wetland functions (and not listed below)</u>	<u>100</u>	<u>150</u>	<u>200</u>
<u>Category I & II: Forested</u>	<u>100</u>	<u>150</u>	<u>200</u>
<u>Category I: Bogs, calcareous fens, and Wetlands of High Conservation Value</u>	<u>190</u>	<u>190</u>	<u>190</u>
<u>Category I: Alkali</u>	<u>150</u>	<u>150</u>	<u>150</u>
<u>Category II: Vernal pool</u>	<u>150</u>	<u>150</u>	<u>150</u>
<u>Category III</u>	<u>80</u>	<u>150</u>	<u>200</u>
<u>Category IV</u>	<u>50</u>	<u>50</u>	<u>50</u>

- b. Impact Mitigation Measures. Developments that produce the listed disturbances and are requesting a buffer reduction are required to address the disturbance through the use of applicable minimization measures.

This is not a complete list of measures, nor is every example measure required. Though not every measure is required, all effort should be made to implement as many measures as possible. The decision body should determine, in coordination with the applicant, which measures are applicable and practicable.

Table 3. Impact Mitigation Measures.

<u>Examples of disturbance</u>	<u>Activities and uses that cause disturbances</u>	<u>Examples of measures to minimize impacts</u>
<u>Lights</u>	<u>• Parking lots</u> <u>• Commercial/Industrial</u> <u>• Residential</u> <u>• Recreation (e.g., athletic fields)</u> <u>• Agricultural buildings</u>	<u>• Direct lights away from wetland</u> <u>• Only use lighting where necessary for public safety and keep lights off when not needed</u>

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		• <u>Use motion-activated lights</u> • <u>Use full cut-off filters to cover light bulbs and direct light only where needed</u> • <u>Limit use of blue-white colored lights in favor of red-amber hues</u> • <u>Use lower-intensity LED lighting</u> • <u>Dim light to the lowest acceptable intensity</u>
<u>Noise</u>	• <u>Commercial</u> • <u>Industrial</u> • <u>Recreation (e.g., athletic fields, bleachers, etc.)</u> • <u>Residential</u> • <u>Agriculture</u>	• <u>Locate activity that generates noise away from wetland</u> • <u>Construct a fence to reduce noise impacts on adjacent wetland and buffer</u> • <u>Plant a strip of dense shrub vegetation adjacent to wetland buffer</u>
<u>Toxic runoff</u>	• <u>Parking lots</u> • <u>Roads</u> • <u>Commercial/industrial</u> • <u>Residential areas</u> • <u>Application of pesticides</u> • <u>Landscaping</u> • <u>Agriculture</u>	• <u>Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered</u> • <u>Establish covenants limiting use of pesticides within 150 ft. of wetland</u> • <u>Apply integrated pest management</u> (Note: These examples are not necessarily adequate for minimizing toxic runoff if threatened or endangered species are present at the site.)
<u>Stormwater runoff</u>	• <u>Parking lots</u> • <u>Roads</u> • <u>Residential areas</u> • <u>Commercial/industrial</u> • <u>Recreation</u> • <u>Landscaping/lawns</u> • <u>Other impermeable surfaces, compacted soil, etc.</u>	• <u>Retrofit stormwater detention and treatment for roads and existing adjacent development</u> • <u>Prevent channelized or sheet flow from lawns that directly enters the buffer</u> • <u>Infiltrate or treat, detain, and disperse new runoff from impervious surfaces and lawns</u>
<u>Pets and human disturbance</u>	• <u>Residential areas</u> • <u>Recreation</u>	• <u>Use privacy fencing</u> • <u>Plant dense native vegetation to delineate buffer edge and to discourage disturbance</u> • <u>Place wetland and its buffer in a separate tract</u> • <u>Place signs around the wetland buffer every 50-200 ft., and for subdivisions place signs at the back of each residential lot</u> • <u>When platting new subdivisions, locate greenbelts, stormwater facilities, or other lower-intensity land uses adjacent to wetland buffers</u>
<u>Dust</u>	• <u>Tilled fields</u> • <u>Roads</u>	• <u>Use best management practices to control dust</u>

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

i. A relatively undisturbed, vegetated corridor at least 100 feet wide is protected between the wetland and:

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- A legally protected, relatively undisturbed and vegetated area (e.g., Priority Habitats, compensatory mitigation sites, wildlife areas/refuges, national, county, and state parks where they have management plans with identified areas designated as Natural, Natural Forest, or Natural Area Preserve, or
- An area that is the site of a Watershed Project identified within, and fully consistent with, a Watershed Plan as defined by RCW 89-08-460, or
- An area where development is prohibited according to the provisions of the local shoreline master program, or
- An area with equivalent habitat quality that has conservation status in perpetuity, in consultation with WDFW.
- ii. The corridor is permanently protected for the entire distance between the wetland and the shoreline or legally protected area by a conservation easement, deed restriction, or other legal means.
- iii. Presence or absence of the shoreline or Priority Habitat must be confirmed by a qualified biologist or shoreline Administrator.
- iv. The measures in Table 3 are implemented, as applicable, to minimize the impacts of the adjacent land uses.
- d. Buffer Vegetation. The buffer widths in Tables 1 and 2 assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is un-vegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer must either be planted to create the appropriate native plant community or be widened to ensure that the buffer provides adequate functions to protect the wetland.
- e. Measurement. All buffers shall be measured perpendicular from the wetland boundary as delineated in the field.
- f. Functionally Disconnected Buffer Areas. 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.
- g. Allowed Buffer Uses. The following uses may be allowed within a wetland buffer in accordance with the review procedures of this Chapter, provided they are not prohibited by any other applicable law, and they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:
 - i. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.
 - ii. Passive recreation facilities designed in accordance with an approved critical area report, including:
 - a. Walkways and trails, provided that they are limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer twenty-five percent (25%) of the wetland buffer area, and located to avoid removal of mature trees. They should be limited to pervious surfaces no more than five (5) feet in width and designed for pedestrian use only. Raised boardwalks utilizing nontreated pilings may be acceptable.
 - b. Wildlife-viewing structures.

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- iii. Educational and scientific research activities. Publication 22-06-014 Appendix A. Sample Wetland Regulations Page A-11 October 2022
- iv. Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way, provided that the maintenance or repair does not increase the footprint or use of the facility or right-of-way.
- v. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.
- vi. Drilling for utilities/utility corridors under a buffer, with entrance/exit portals located completely outside of the wetland buffer boundary, provided that the drilling does not alter the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column would be disturbed.
- vii. Enhancement of a wetland buffer through the removal of non-native, invasive plant species. Removal of invasive plant species shall be restricted to hand removal. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds should be handled and disposed of according to a noxious weed control plan appropriate to that species. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.
- viii. Repair and maintenance of legally established non-conforming uses or structures, provided they do not increase the degree of nonconformity.
- 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.

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Low	Low-intensity open space including unpaved trails.
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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

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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	• Direct lights away from wetland
Noise	• 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	• 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	• 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	• Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	• 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	• 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

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- iv. ~~The buffer at its narrowest point is never less than either 75 percent of the required width or 75 feet for Category I and II, 50 feet for Category III, and 25 feet for Category IV, whichever is greater. 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~~ Critical Area Review.
- GJ. 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~~ Fences shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes impacts to the wetland and associated habitat.
 - 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."
- HJ. 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.

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- 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, depressional 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.

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- 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
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~~Critical Area Review Process of Section 17.10.040.A.

An application for a reasonable use exception shall be made to the ~~city~~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~~City shall approve ~~Critical Areas Permit~~Critical Area Reviews 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 ten percent from the standards of this chapter may be authorized through the ~~critical-area-permit~~Critical Area Review process. No minor exception may reduce a floodway or flood elevation requirement, authorize development posing an unacceptable geologic risk, waive a prohibited CARA use, or reduce a wetland or riparian standard unless a qualified professional demonstrates no net loss of functions and values and consistency with BAS
- 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~~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~~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~~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~~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 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~~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~~City initiates enforcement action or files a complaint in court, the ~~city~~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

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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:

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 this section. Nothing herein contained shall prevent the CityCity 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., one hundred years).

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

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Critical Areas - Critical areas include any of the following areas or ecosystems: fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, critical aquifer recharge 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

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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 [cityCity](#) official appointed or retained by the [cityCity](#) 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

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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 one hundred 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.



9/24/2026 Planning Commission Meeting

To: Planning Commission
From: Elisa Rodriguez, Senior Planner
TOPIC: Periodic Update: Official Zoning Map

Requested Action:

Hold a public hearing and make a recommendation to City Council for the proposed Official Zoning Map.

Key Points:

A zoning map is an official, legally binding document that visually outlines how land within a community is divided into specific zoning districts. The existing and proposed zoning maps are attached.

Per Ordinance 1144, adopted by the City Council in April 2026, the City now has five zoning districts to be applied within the city limits. These districts are as follows:

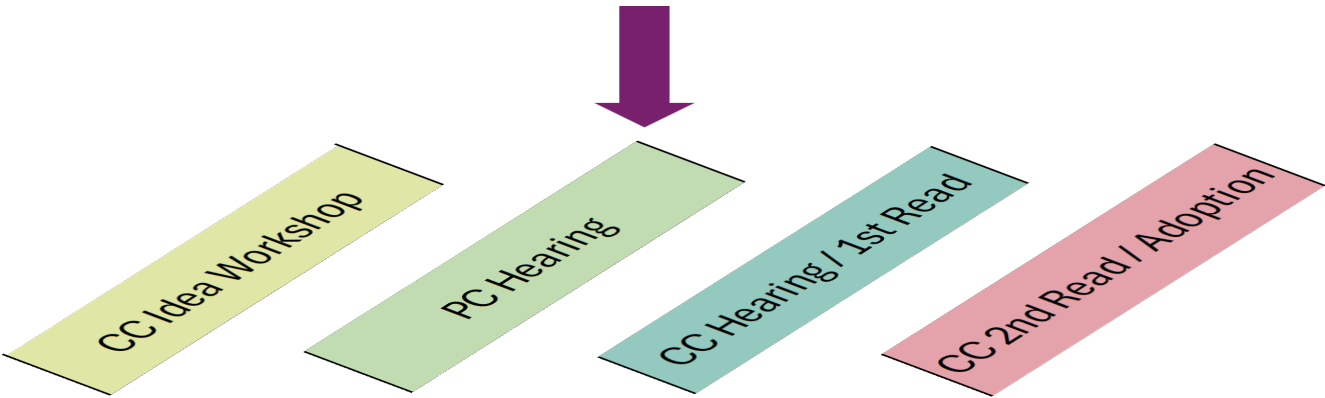
- Low Density Residential (LDR). Intended to preserve and expand neighborhoods characterized by detached single family housing. This designation also supports middle income housing through accessory dwelling units, group living, and cottage housing, consistent with adopted zoning standards.
- Medium Density Residential (MDR). Intended to preserve and enhance older residential areas near commercial centers and services. This designation allows townhouses, plexes, cottage housing, and multi dwelling developments to support housing diversity and efficient land use.
- Central Business District (CBD). The CBD is intended to preserve and enhance downtown as a compact, walkable, mixed use center. Commercial uses, housing, offices, services, and civic spaces are integrated vertically and horizontally, with pedestrian oriented design standards.
- Mixed Use (MU). Mixed Use areas accommodate larger scale residential and commercial development, supporting housing, employment, services, and regional access. These areas provide flexibility for evolving land use needs while emphasizing connectivity and design quality.
- Public Facilities (PF). This designation recognizes the distinct nature of public services and institutional uses, including utilities, schools, parks, civic buildings, and essential public facilities, including the State institutions.

Background Discussion:

The current zones Single-Family Residential (R-1), Two-Family Residential (R-2), Multiple-Family Residential (R-3), Commercial (C-1), and Light Industrial (I-1) were adopted into the municipal code

in 1960. Institutional Zoning was added in 1994. Parks, Open Space, Schools, Public Lands, and Single-Family Planned Residential (R-1P) were added in 1999. Finally, Mixed -Use Commercial (MC-1) was added in 2000.

Because the Official Zoning Map is a result of recent code amendments and the new comprehensive plan, the adoption process is shorter. This is the step 2 of a 4-step process for adopting a new official zoning map.



Public Involvement:

The draft Zoning Map is informed by and created with the information from the new Comprehensive Plan and the zoning districts adopted via Ordinance 1144. The public is invited to provide comment at public hearings with the Planning Commission and City Council. In addition, the map is available on the City website for review and comment by the public.

Next Steps:

After review and recommendation is made by the Planning Commission, a public hearing will be held with City Council. This hearing is currently scheduled for October 6, 2026.



City of Medical Lake Planning Department
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STAFF REPORT TO THE PLANNING COMMISSION

File: Periodic Update: Official Zoning Map

Date of Staff Report: September 17, 2026

Date of Hearing: September 24, 2026

Staff Planner: Elisa Rodriguez 509-565-5019 or erodriguez@medical-lake.org

SEPA: Determination of Non-Significance was made on September 3, 2026

Procedure: This request requires a legislative review, therefore, the Planning Commission will hold a public hearing and make a recommendation to the City Council. The City Council will hold a public hearing to consider an ordinance to adopt the official zoning map. The complete process can be found in the Medical Lake Municipal Code (MLMC), Section 19.270.050 – Type IV Reviews.

Proposal: It is proposed to replace the official zoning map with a new zoning map reflecting the new zoning districts that were adopted via Ordinance 1144. In addition, MLMC Chapters 17.16, 17.18, 17.20, 17.24, 17.26, 17.27, 17.28, 17.29, 17.32, and 17.35, the zoning districts being replaced, will be deleted.

Summary: The City of Medical Lake is going through the Periodic Update (a state mandated review every 10 years) of the Comprehensive Plan and related development regulations. In April 2026, the City Council adopted five new zoning districts into the municipal code. However, these zoning districts did not take effect because they were not depicted in the official zoning map. Now that the new comprehensive plan has been adopted, it is proposed to adopt a new zoning map and delete the old zoning districts from the municipal code.

PROCEDURAL HISTORY

SEPA DNS Issued – September 3, 2026

Notice of a Public Hearing Published in Cheney Free Press – September 3, 2026

Public Comment Period Closed – September 17, 2026

PROPOSED MAP

The proposed Zoning Map along with the existing Official Zoning Map are attached.

PUBLIC COMMENT

No public comment has been received.

APPROVAL CRITERIA

Amendments to the Official Zoning Map are subject to MLMC Section 19.140.080.C, Approval Criteria.

- A. The proposed amendment is consistent with the comprehensive plan goals, policies and objectives.

Findings: The proposed Official Zoning Map applies the five zoning districts adopted by Ordinance 1144 and implements the land use framework shown in the Medical Lake Comprehensive Plan 2046. The map consolidates the City's former zoning classifications into Low-Density Residential, Medium-Density Residential, Central Business District, Mixed Use, and Public Facilities districts. These districts correspond to the Comprehensive Plan's land use pattern and further Goals A through E of Chapter 5 by directing growth to the urban area, supporting housing choice and neighborhood stability, strengthening downtown and mixed-use areas, preserving community character and environmental assets, and coordinating land use with public investment. The amendment also directly advances Chapter 12, Goal A, which calls for alignment between zoning districts, development standards, and the Comprehensive Plan. **For these reasons, this criterion is met.**

- B. The proposed amendment does not reduce the housing capacity or income stratification needs of the city.

Findings: The amendment does not reduce residential development capacity. The draft map retains substantial Low-Density Residential areas while designating Medium-Density Residential areas near downtown, commercial services, and established neighborhoods where a broader range of housing types can be supported. Under the adopted zoning districts, Low-Density Residential allows detached single-family housing as well as accessory dwelling units, group living, and cottage housing; Medium-Density Residential allows townhouses, plexes, cottage housing, and multi-dwelling development; and the Central Business District and Mixed Use districts allow residential development in combination with commercial and service uses. This range of permitted housing types supports the Comprehensive Plan's identified housing needs across income levels and advances Chapter 5, Goal B and Chapter 12, Goal B. The 2025 Land Capacity Analysis found capacity for approximately 293 additional dwelling units under the zoning standards then in effect, which exceeds the City's allocated growth of 244 residents. The combination of the new zoning districts' regulations and the proposed zoning map, increase the capacity for housing to 890 units. Because the new districts provide additional flexibility and housing choices rather than removing residential opportunities, the amendment will not reduce the City's ability to accommodate projected growth or housing needs by income level. **For these reasons, this criterion is met.**

- C. The proposed amendment(s) will not adversely affect the ability to provide city services in a cost-effective manner.

Findings: The proposed map generally carries forward the City's established land use pattern while simplifying the number of zoning districts and aligning future development with areas already served or planned to be served by urban infrastructure. Concentrating residential intensity near downtown, commercial services, and existing transportation networks supports the cost-effective use of water, wastewater, stormwater, streets, parks, and public safety services. The Public Facilities district

clearly identifies schools, parks, utilities, civic properties, and state institutional campuses, improving the relationship between zoning and long-range facility planning. Future development remains subject to applicable development review, utility capacity, level-of-service, concurrency, and mitigation requirements. Accordingly, adoption of the map itself will not adversely affect the City's ability to provide services in a cost-effective manner and is consistent with Chapter 5, Goal E, Chapter 7, Goal B, and Chapter 13, Goal D of the Comprehensive Plan. **For these reasons, this criterion is met.**

- D. The proposed amendment will not be detrimental to and will result in long-term benefits to the community as a whole and is in the public interest.

Findings: Replacing the outdated zoning map with a map that reflects the five districts already adopted by Ordinance 1144 will provide a clearer, more predictable, and easier-to-administer regulatory framework for property owners, residents, businesses, applicants, and City staff. The amendment supports reinvestment in downtown, expands opportunities for housing diversity, recognizes the distinct role of public and institutional lands, and provides flexible mixed-use areas for housing, employment, and services while retaining low-density neighborhoods and the City's small-town character. The long-term benefits of consistency between the Comprehensive Plan, zoning regulations, and Official Zoning Map outweigh the administrative transition from the former districts. The amendment is therefore not detrimental to the community, will provide long-term community benefits, and is in the public interest. **For these reasons, this criterion is met.**

CONCLUSION

Staff finds that the proposed Official Zoning Map and related deletion of the superseded zoning district chapters satisfy the approval criteria in MLMC Section 19.140.080.C, Approval Criteria. The proposal is consistent with the Medical Lake Comprehensive Plan 2046, maintains and broadens opportunities to meet projected housing and income-level needs, supports the cost-effective provision of public services, and will provide long-term benefits through a clear and internally consistent land use framework. Staff recommends that the Planning Commission recommend approval of the proposed amendments to the City Council.

POSSIBLE ACTIONS BY THE PLANNING COMMISSION

1. Recommend approval of the proposed amendments to the City Council.
2. Recommend approval of modified amendments to the City Council.
3. Request City Staff to address concerns and return with modified language.

