

**CITY OF WHITE SALMON
ORDINANCE NO. 2012-11-906**

**AN ORDINANCE OF THE CITY OF WHITE SALMON, WA, AMENDING
CHAPTER 18 REGARDING ENVIRONMENTAL PROTECTION,
INCLUDING SEVERABILITY AND AN EFFECTIVE DATE**

WHEREAS, the City of White Salmon (“City”) acknowledges the need to provide for uniform and efficient environmental regulations; and

WHEREAS, the City wishes to adopt the following ordinance to adopt environmental regulations within the City for the protection of the health and safety of the residents and the environment, as well as the preservation of the City’s critical areas.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF WHITE SALMON DO ORDAIN AS FOLLOWS: that the following amendments be made to the White Salmon Municipal Code, amending Title 18:

SECTION 1 - Ordinance 1981-6-364 (Chapter 18.30) is hereby repealed. The following new Title 18 is hereby adopted:

Title 18

ENVIRONMENT

CHAPTERS

18.10 CRITICAL AREAS ORDINANCE

18.20 ENVIRONMENTAL PROTECTION (SEPA REVIEW)

18.30 SHORELINES MASTER PLAN

**CHAPTER 18.10
CRITICAL AREAS ORDINANCE**

SECTIONS:

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SECTION 18.10.030

INTRODUCTION AND PURPOSE

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

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

Conservation of critical areas has associated natural resource benefits, including improved air and water quality, maintenance of fish and wildlife habitat, decreased erosion and sedimentation to streams, absorption of pollutants and preservation of rare plant and animal species.

The intent of this regulation is that the city of White Salmon is to achieve no net loss of wetlands, floodplains, fish and wildlife habitat areas, and riparian zones and to avoid the loss of geologically hazardous areas and aquifer recharge/wellhead protection areas. Where avoidance is not practical, the intent is to minimize the environmental impacts of development within and adjacent to critical areas. This regulation promotes a balance between recreational and public use of critical areas, consistent with the maintenance of their natural appearance and functional values.

The regulation will be adopted as a city ordinance; it will function as an overlay. The Critical Areas Ordinance will not change the base zoning of any parcel or land. It will potentially limit development otherwise permissible in the base zone, as required to maintain appearance and function of the critical area. Development limitations on critical areas reduce the need to require additional studies to ensure compliance with the State Environmental Policy Act (SEPA) process and other state or federal environmental regulations.

SECTION 18.10.070

BEST AVAILABLE SCIENCE AND RISK ASSESSMENTS

In 1995, the State legislature amended the Growth Management Act's environmental protection goal to require that regulations use Best Available Science (BAS) to implement a "science-based standard" for the protection of critical areas. The requirement that regulators use best available science is important for two reasons: first, it increases the likelihood that the benefits of a regulation actually exceed its costs, and secondly, it makes the process of regulatory decision-making more predictable.

A number of models and ordinances based on BAS were reviewed. After review, the *Model Code for Critical Areas* by the Snoqualmie Watershed Forum and the City of La Center's *Critical Areas Ordinance* stood out as the best-fit templates to use in preparing this document. The Model Code was chosen for its clarity and thoroughness, and because it was endorsed as a good starting point by the senior planner and Critical Areas specialist at (CTED). The city of La Center's Critical Areas Ordinance provided a good example since the town is of a similar size to White Salmon.

Local jurisdictions may depart from BAS, but are required to produce a scientifically-based risk assessment. The City of White Salmon has not elected to prepare risk assessments necessary to depart from BAS.

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

Section 18.10.100

ADMINISTRATION

SUB-SECTIONS:

- 18.10.110 AUTHORITY AND TITLE
- 18.10.111 PURPOSE
- 18.10.112 JURISDICTION
- 18.10.113 DESIGNATION OF CRITICAL AREAS
- 18.10.114 APPLICABILITY
- 18.10.115 PREAPPLICATION CONFERENCE
- 18.10.116 SUBMITTAL REQUIREMENTS
- 18.10.117 BONDS OR PERFORMANCE SECURITY
- 18.10.118 NATIVE GROWTH PROTECTION EASEMENT/CRITICAL AREA TRACT
- 18.10.119 NOTICE ON TITLE
- 18.10.120 INSPECTION AND RIGHT OF ENTRY
- 18.10.121 ENFORCEMENT
- 18.10.122 FEES
- 18.10.123 APPEALS
- 18.10.124 GENERAL EXEMPTIONS
- 18.10.125 EXCEPTIONS
- 18.10.126 NON-CONFORMING USES AND STRUCTURES

18.10.110 AUTHORITY AND TITLE

- A. This ordinance is established pursuant to the Revised Code of Washington (RCW) Chapter 36.70A (the Growth Management Act) and is known as the White Salmon Critical Areas Ordinance.
- B. This Chapter shall apply concurrently with review under the State Environmental Policy Act (SEPA) and Shoreline Management Act (SMA) once locally adopted.
- C. Compliance with the provisions of this Chapter does not constitute compliance with other local, state or federal regulations and permit requirements.

18.10.111 PURPOSE

The purpose of the critical areas overlay district is to:

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

18.10.112 JURISDICTION

- A. The City of White Salmon (the City) shall regulate all uses, activities, and developments within, adjacent to, or likely to affect, one or more critical areas, consistent with the provisions of this Chapter.
- B. Critical areas regulated by this Chapter include:
 - 1. Wetland Areas
 - 2. Critical Aquifer Recharge Areas
 - 3. Frequently Flooded Areas
 - 4. Fish and Wildlife Conservation Areas
 - 5. Geologically Hazardous Areas
- C. All areas within the City meeting the definition of one or more critical areas are subject to the provisions of this Chapter.

18.10.113 DESIGNATION OF CRITICAL AREAS

- A. The City has designated critical areas by defining their characteristics. The applicant shall determine and the City shall verify, on a case-by-case basis, in accordance with the definitions in this Section 18.10.100, whether a critical area exists and is regulated under this chapter, on or in close proximity to, the subject property that would require a setback or buffer required under this Chapter.
- B. The following resources will assist in determining the likelihood that a critical area exists.

These resources may not identify all critical areas and should only be used as a guide. Actual field observations shall supercede information in these resources.

1. The map resource inventory is being compiled and will be maintained to list all currently identified map resources. Additional maps may be added if they are identified as applicable and useful to the City or applicants in their efforts to identify critical areas.
2. Information about type and location of identified fish and wildlife conservation areas is the most frequently updated information affecting the City. Fish and wildlife inventory maps also contain sensitive information and will not be provided for broad public review. For these reasons building and land use permit applications will be routed through WDFW. The City will depend on input from WDFW in order to:
 - a. accurately identify fish and wildlife conservation areas,
 - b. determine when a critical areas report and wildlife management plan is required,
 - c. review and determine whether the scope of a proposed critical area report and wildlife management plan is sufficient to provide necessary information, and
 - d. ensure that protection or mitigation measures called for in a critical area report and management plan are sufficient to protect the resource in accordance to with this regulation

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

- C. Additionally, the City has collected a series of maps, which approximate boundaries for the following critical areas within the City limits: fish and wildlife conservation areas, geologically hazardous areas, frequently flooded areas, wetlands, and critical aquifer recharge areas (for city water sources these are located outside city limits and urban growth boundary). These maps provide only approximate boundaries of known features and are not adequate substitutes for more detailed maps and/or studies that could identify alternative locations of known features or additional critical area features not illustrated

on the map. Mapped information may be sensitive in nature. Copies of the maps available for public viewing may be found at White Salmon City Hall.

18.10.114 APPLICABILITY

- A. The provisions of this Chapter shall apply to all lands, all land uses and development activity, and all structures and facilities in the city, whether or not a permit or authorization is required, and shall apply to every person, firm, partnership, corporation, group, governmental agency, or other entity that owns or leases land within the City of White Salmon. No person, company, agency, or applicant shall alter a critical area or its attendant buffer except as consistent with the purpose and requirements of this Chapter.
- B. The City of White Salmon shall not approve any development proposal or otherwise issue any authorization to alter the condition of any land, water, or vegetation, or to construct or alter any structure or improvement in, over, or on a critical area or associated buffer, without first assuring compliance with the requirements of this Chapter.
- C. Development proposals include proposed activities that require any of the following, or any subsequently adopted permits or required approvals not expressly exempted from these regulations.

TABLE 18.10: 1

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|--|--------------------------------------|
| • Building Permit | • Variance Approval |
| • Grading Permit or Proposed Grading that will disturb more than 10,000 s.f. of area | • Subdivision |
| • Shoreline <ul style="list-style-type: none">– Substantial Development– Conditional Use, or– Variance | • Planned Unit Development |
| • Permission to work in a public ROW | • Short Subdivision |
| • Conditional Use Permit | • Binding Site Plan |
| | • Accessory Dwelling Unit |
| | • Zone Change w/ or w/out annexation |

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

18.10.115 PREAPPLICATION CONFERENCE

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

18.10.116 SUBMITTAL REQUIREMENTS

In addition to the information required for a development permit, any development activity subject to the provisions of this Chapter may be required to submit a Critical Areas Report as described under Section 18.10.200 General Provisions. These additional requirements shall not apply for an action exempted in Section 18.10.125.

18.10.117 BONDS OR PERFORMANCE SECURITY

- A. Prior to issuance of any permit or approval which authorizes site disturbance under the provisions of this Chapter, the City shall require performance security to assure that all work or actions required by this Chapter are satisfactorily completed in accordance with the approved plans, specifications, permit or approval conditions, and applicable regulations and to assure that all work or actions not satisfactorily completed will be corrected to comply with approved plans, specifications, requirements, and regulations to eliminate hazardous conditions, to restore environmental damage or degradation, and to protect the health safety and general welfare of the public.
- B. The City shall require the applicant to post a performance bond or other security in a form and amount acceptable to the City for completion of any work required to comply with this code at the time of construction. If the development proposal is subject to mitigation, the applicant shall post a performance bond or other security in a form and amount deemed acceptable by the City to cover long term monitoring, maintenance, and performance for mitigation projects to ensure mitigation is fully functional for the duration of the monitoring period.
- C. The performance bond or security shall be in the amount of one hundred and twenty-five percent (125%) of the estimated cost of restoring the functions and values of the critical area at risk.
- D. The bond shall be in the form of irrevocable letter of credit guaranteed by an acceptable financial institution, with terms and conditions acceptable to the City or an alternate instrument or technique found acceptable by the City attorney.

- E. Bonds or other security authorized for mitigation by this Section shall remain in effect until the City determines, in writing, that the standards bonded have been met. Bonds or other security for required mitigation projects shall be held by the City for a minimum of five (5) years to ensure that the mitigation project has been fully implemented and demonstrated to function. The bond may be held for longer periods upon written finding by the City that it is still necessary to hold the bond to ensure the mitigation project has meet all elements of the approved mitigation plan
- F. Depletion, failure, or collection of bond funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.
- G. Any failure to satisfy critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within thirty (30) days after it is due or 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 law or condition.
- H. Any funds recovered pursuant to this Section shall be used to complete the required mitigation.

18.10.118 NATIVE GROWTH PROTECTION EASEMENT/CRITICAL AREA TRACT

- A. As part of the implementation of approved development applications and alterations, critical areas and their buffers that remain undeveloped pursuant to this Chapter, in accordance with the Section 18.10.200 *General Provisions* shall be designated as Native Growth Protection Easements (NGPE). Any critical area and its associated buffer created as compensation for approved alterations shall also be designated as an NGPE.
- B. When the subject development is a formal subdivision, short subdivision (short plat), binding site plan, site plan/design review, master site plan, or Planned Unit Development (PUD), critical areas and their buffers shall be placed in a critical areas tract in addition to being designated as a NGPE, as described in the Section 18.10.200, General Provisions, of these regulations.
- C. The requirement that a critical area tract be created may be waived by the City if it is determined that all or the critical majority of a NGPE will be contained in a single ownership without creation of a separate tract.

18.10.119 NOTICE ON TITLE

- A. To inform subsequent purchasers of real property of the existence of critical areas the owner of any real property containing a critical area or buffer on which a development proposal is submitted and approved shall file a notice with the City for review and approval as to form and content prior to recording the notice with the County.

The notice shall state:

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

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

- B. This notice on title shall not be required for a development proposal by a public agency or public or private utility within a recorded or adjudicated right-of-way or easement.
- C. The applicant shall submit proof that the notice has been filed for public record prior to building permit approval or prior to recording of the final plat in the case of subdivisions.

18.10.120 INSPECTION AND RIGHT OF ENTRY

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

18.10.121 ENFORCEMENT

- A. The provisions of White Salmon Municipal Code shall regulate the enforcement of these Critical Areas Regulations.
- B. Adherence to the provisions of this Chapter and/or to the project conditions shall be required throughout the construction of the development. Should the City or its agent

determine that a development is not in compliance with the approved plans, a stop work order may be issued for the violation.

- C. When a stop work order has been issued, construction shall not continue until such time as the violation has been corrected and that the same or similar violation is not likely to reoccur.
- D. In the event of a violation of this Chapter, the City or its agent shall have the power to order complete restoration of the critical area by the person or agent responsible for the violation. If such responsible person or agent does not complete such restoration within a reasonable time following the order, the City or its agent shall have the authority to restore the affected critical area to the prior condition wherever possible and the person or agent responsible for the original violation shall be indebted to the City for the cost of restoration.

18.10.122 FEES

- A. At the time of application for land use review or critical areas review, the applicant shall pay a critical areas review fee, adopted by the City council and amended from time to time.
- B. The applicant shall also be responsible for cost of City or peer review of
 1. initial proposal and reports
 2. development performance
 3. monitoring and maintenance reports;as deemed necessary by the City during review of the proposed action.

18.10.123 APPEALS

Appeals of administrative decisions shall be governed by *Chapter 19.10, Land Development Administrative Procedures, Article V: Appeals, Sections 19.10.220 through 19.10.330* of the White Salmon Municipal Code (WSMC).

18.10.124 GENERAL EXEMPTIONS

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

A. Emergencies.

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

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

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

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

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

18.10.125 EXCEPTIONS

A. Administrative Exceptions

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

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

- a. Single family residential building permits are exempt from the requirements of this Chapter when the development proposal involves:
 - i. Structural modifications to or replacement of an existing single-family residential structure or construction of a new residential structure where construction and associated disturbance does not increase the footprint of any existing structure.
 - ii. The structure is not located closer to the critical area.
 - iii. The existing impervious surface within the critical area or buffer is not expanded.

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

- c. Activities within the improved right-of-way. Replacement, modification, installation or construction of utility facilities, lines, pipes, mains, equipment or appurtenances, not including substations, when such facilities are located within the improved portion of the public right-of-way or a city-authorized private roadway. Those activities within improved right-of-way that alter a wetland or watercourse, such as culverts or bridges, or result in the transport of sediment or increased stormwater, subject to the following:
 - i. The activity shall result in the least possible impact and have no practical alternative with less impact on the critical area and/or its buffer.
 - ii. An additional, contiguous and undisturbed critical area buffer shall be provided, equal in area to the disturbed critical area buffer; and
 - iii. Retention and replanting of native vegetation shall occur wherever possible along the right-of-way improvement and resulting disturbance.

- d. Minor utility projects. Utility projects which have minor or short-term impacts to critical areas, as determined by the City or its agent in accordance with the criteria below. Minor utility projects are projects that do not significantly impact the functions and values of a critical area(s), such as the placement of a utility pole, street sign, anchor, vault, or other small component of a utility facility. Such projects shall be constructed with best management practices and additional restoration measures may be required. Minor activities shall not result in the transport of sediment or increased stormwater runoff. Minor actions that do transport sediment or increase runoff shall meet the following criteria:
 - i. There is no practical alternative to the proposed activity with less adverse impacts on critical areas and all attempts have been made to first avoid impacts, minimize impacts, and lastly mitigate unavoidable impacts;

- ii. The activity will not change or diminish the overall critical area hydrology or flood storage capacity;
- iii. The minor utility project shall be designed and constructed to prevent spills and leaks into critical areas;
- iv. The activity will not reduce the existing functions and values of the affected critical areas;
- v. To the maximum extent practicable, utility corridor access for maintenance is at limited access point into the critical area buffer rather than by a parallel access road; and
- vi. Unavoidable impacts will be mitigated pursuant to an approved mitigation plan.

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

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

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

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

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

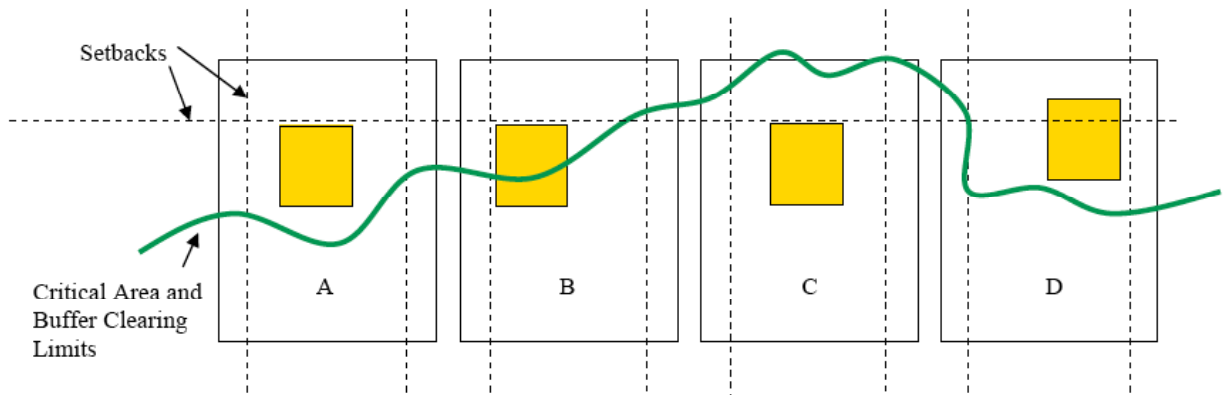
a. The applicant has considered all reasonably possible construction techniques based on available technology that are feasible for the proposed project and eliminated any that would result in unreasonable risk of impact to the critical area; and

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

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

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

1. This Chapter would otherwise deny all reasonable use of the property;
2. There is no other reasonable use consistent with the underlying zoning of the property that has less adverse impact on the critical area and/or associated buffer;
3. The proposed development does not pose an unreasonable threat to the public health, safety or welfare on or off the property;
4. Any alteration is the minimum necessary to allow for reasonable use of the property;
5. The inability of the applicant to derive reasonable use of the property is not the result of actions by the applicant after the effective date of this chapter or its predecessor; and
6. The applicant may only apply for a reasonable use in accordance with a variance approval.
7. Four scenarios that illustrate situations where a reasonable use exception might or might not be applicable are sketched below:



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

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

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

1. The variance shall not constitute a grant of special privilege inconsistent with the limitation on use of other properties similarly affected by the code provision for which a variance is requested;
2. That such variance is necessary to provide reasonable use of the property, because of special circumstances and/or conditions relating to the size, shape, topography, sensitive areas, location, or surroundings of the subject property, to provide it with those relative rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located. The phrase “relative rights and privileges” is to ensure that the property rights and privileges for the subject property are considered primarily in relation to current City land-use regulations;
3. That the special conditions and/or circumstances identified in subsection 2 of this section giving rise to the variance application are not self created conditions or circumstances;
4. That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property, neighborhood, or improvements in the vicinity and zone in which subject property is situated;
5. That the reasons set forth in the application and the official record justify the granting of the variance, and that the variance is the minimum variance necessary to grant relief to the applicant;
6. That alternative development concepts in compliance with applicable codes have been evaluated, and that undue hardship would result if strict adherence to the applicable codes is required; and
7. That the granting of the variance will not adversely affect implementation of the comprehensive plan or policies adopted thereto and the general purpose and intent of the zoning title or other applicable regulations.
8. WDFW will be notified of any proposed variance to critical areas affecting fish and wildlife sites and habitat areas. The City may require the applicant to demonstrate that WDFW is not willing or able to acquire the property before a variance to fish and wildlife, stream, or wetland conservation areas is approved.

E. Mitigation Required

Any authorized alteration to a wetland or stream or its associated buffer, or alteration to a fish and wildlife habitat conservation area, as approved under sections A, B, or C and D of this

section, shall be subject to conditions established by the City and shall require mitigation under an approved mitigation plan per 18.10.200(L).

18.10.126 NON-CONFORMING USES AND STRUCTURES

A. PURPOSE

The purpose of this section establishes the terms and conditions for continuing non-conforming uses, structures and lots which are lawfully established prior to the effective date of this title.

B. ESTABLISHING STATUS

1. A legally established non-conforming lot, use or structure may be continued, transferred or conveyed and/or used as if conforming.
2. The burden of establishing that any non-conforming lot, use or structure lawfully existed as of the effective date of this chapter shall, in all cases, rest with the owner and not with the City.
3. A non-conforming lot, use, or structure may be deemed legally non-conforming by providing documentation from two of the following:
 - a) Local agency permit;
 - b) Photographic record indisputably dating and locating the lot use or structure as pre existing the date of this chapter;
 - c) Other historical data accepted by the decision maker as sufficient to prove legal existence of a structure, lot, or use prior to adoption of this chapter.

C. MAINTENANCE AND REPAIR OF NON-CONFORMING STRUCTURES

Normal maintenance and incidental repair of legal non-conforming structures shall be permitted, provided that it complies with all the sections of this Chapter and other pertinent chapters of the WSMC.

D. RECONSTRUCTION

Reconstruction, restoration or repair (and remodeling) of a legal non-conforming structure damaged by fire, flood, earthquake, falling trees or limbs, or other disasters, shall be permitted; provided that such reconstruction shall not result in the expansion of the non-conforming structure into or towards the critical area, or in a manner that increases the potential impact to the critical area or risk of harm to public safety. Legal non-conforming status will be lost if a building permit is not secured within one year of the date damage is incurred.

E. EXPANSION OF NON-CONFORMING USE OR STRUCTURE

No legal non-conforming use or structure may be expanded, enlarged, extended, or intensified in any way (including extension of hours of operation) unless such modification is in full compliance with this chapter or the terms and conditions of approved permits pursuant to this chapter.

F. DISCONTINUANCE OF NON-CONFORMING USE OR STRUCTURE

1. All legal non-conforming uses shall be encouraged to convert to a conforming use whenever possible. Conformance shall be required when:
 - a. A change of use is proposed;
 - b. The use is terminated or discontinued for more than one (1) year, or the structure(s) which houses the use is vacated for more than one (1) year; or
 - c. The structure(s) or area in which the use is conducted is proposed for relocation.

Section 18.10.200

GENERAL PROVISIONS

SUB-SECTIONS:

- 18.10.210 GENERAL APPROACH
- 18.10.211 BUFFERS
- 18.10.212 BUILDING SET BACK LINE (BSBL)
- 18.10.213 LAND DIVISION AND PROPERTY LINE ADJUSTMENT
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The City of White Salmon will use the following general methods and mechanisms to accomplish the purposes of the Critical Areas Regulations. This section shall be applied to all approved development applications and alterations when action is taken to implement the proposed action.

18.10.210 GENERAL APPROACH

Protection of critical areas shall observe the following sequence, unless part of a restoration plan for a significantly degraded wetland or stream buffer, described under section B.3, below:

- A. Confirm presence and continued function of critical areas. Information about type and location of identified fish and wildlife conservation areas is the most frequently updated information affecting the City. Fish and wildlife inventory maps also contain sensitive information and will not be provided for broad public review. The City will work with the regional WDFW representative to confirm the presence or absence of significant fish and wildlife conservation areas. Timely response by WDFW is expected in accordance with Section 18.10.113
- B. Avoid the impact by refraining from certain actions or parts of an action;
- C. Where impact to critical areas or their buffers will not be avoided the applicant shall demonstrate that the impact meets the criteria for granting a variance or other applicable exception as set forth in Section 18.10.124 and 125;
- D. Minimize the impacts by limiting the degree or magnitude of the action by using affirmative steps to avoid or reduce impacts or by using appropriate technology;
- E. Rectify the impact by repairing, rehabilitating, or restoring the affected environment;
- F. Reduce or eliminate the impact over time by preservation and maintenance operations;
- G. Compensate for the impacts by creating, replacing, enhancing, or providing substitute resources or environments.

18.10.211 BUFFERS

- A. Measurement of Buffers. All buffers shall be measured from the critical area boundary as surveyed in the field. The width of the buffer shall be determined according to the category of the critical area and the proposed land use.
- B. Standard Buffers. The standard buffer widths presume the existence of a relatively intact native vegetation community in the buffer zone adequate to protect the critical area functions and values at the time of the proposed activity. If the vegetation or protection area is inadequate, the City may require an increase in the buffer width or additional native plantings within the standard buffer width. Provisions to reduce or average buffer widths to obtain optimal habitat value are provided under the development standards for each critical area.

- C. Averaging Buffers. The City or its agent will consider the allowance of wetland or stream buffer averaging only when the buffer area width after averaging will not adversely impact the critical area and/or buffer functions and values.

At a minimum, any proposed buffer averaging shall meet the following criteria:

1. The buffer area after averaging is no less than that which would be contained within the standard buffer;
2. The buffer width shall not be reduced by more than twenty-five percent (25%) at any one point as a result of the buffer averaging;
3. The buffer area shall be enhanced where the buffer is averaged;
4. The additional buffer is contiguous with the standard buffer;
5. Encroachment into the buffer does not occur waterward of the top of an associated steep slope or into a channel migration zone;
6. Encroachment does not occur into the buffer of an associated wetland except as otherwise allowed.

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

- E. Reducing Buffers. The City or its agent may reduce up to twenty-five percent (25%) of the critical area buffer requirement unless otherwise stipulated elsewhere in this regulation subject to a critical area study which finds:

1. The applicant has demonstrated avoidance, minimization of impact, and lastly mitigation of impact in that order;
2. The proposed buffer reduction shall be accompanied by a mitigation plan per 18.10.200(L) that includes enhancement of the reduced buffer area;
3. The reduction will not adversely affect water quality or disrupt a significant habitat area; and
4. The reduction is necessary for reasonable development of the subject property.

18.10.212 BUILDING SET BACK LINE (BSBL)

Unless otherwise specified, a minimum BSBL of fifteen (15) feet is required from the edge of any buffer, NGPE, or separate critical area tract, which ever is greater.

18.10.213 LAND DIVISION AND PROPERTY LINE ADJUSTMENT

- A. Subdivisions, short subdivisions, boundary line adjustments and planned residential developments of land in or adjacent to critical areas and associated buffers are subject to the following:

- B. Land that is wholly within a wetland or stream critical area or associated buffer may not be subdivided or the boundary line adjusted unless it can be demonstrated to qualify for and is granted a reasonable use variance

- C. Land that is partially within a wetland or stream critical area or associated buffer area may be subdivided or the boundary line adjusted provided that an accessible and contiguous portion of each new or adjusted lot is:
 - 1. Located outside the critical area and buffer; and
 - 2. Large enough to accommodate the intended use.

- D. Accessory roads and utilities serving the proposed subdivision may be permitted within the wetland or stream critical area and associated buffer only if the City determines that no other feasible alternative exists as determined by securing an exception and consistent with Section 18.10.125 of this Chapter.

18.10.214 NATIVE GROWTH PROTECTION EASEMENTS

- A. As part of the implementation of approved development applications and alterations, critical areas and their buffers shall remain undeveloped and shall be designated as Native Growth Protection Easements (NGPE). Where a critical area or its buffer has been altered on the site prior to approval of the development proposal, the area altered shall be restored using native plants and materials.

- B. The Native Growth Protection Easement (NGPE) is an easement granted to the City for the protection of a critical area and/or its associated buffer. NGPE's shall be required as specified in these rules and shall be recorded on final development permits and all documents of title and with the county Recorder at the applicant's expense. The required language is as follows:

“Dedication of a Native Growth Protection Easement (NGPE) conveys to the public a beneficial interest in the land within the easement. This interest includes the preservation of existing vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, visual and aural buffering, and protection of plant and animal habitat. The NGPE imposes upon all present and future owners and

occupiers of land subject to the easement the obligation, enforceable on behalf of the public of the City of White Salmon, to leave undisturbed all trees and other vegetation within the easement. The vegetation in the easement may not be cut, pruned, covered by fill, removed, or damaged without express permission from the City of White Salmon, which permission must be obtained in writing.”

- C. When the subject development is a formal subdivision, short subdivision (short plat), binding site plan, contract rezone, Master Site Plan, site plan/design Review, or Planned Unit Development (PUD), the critical area and its buffers shall be placed in a Critical Areas Tract and designated as a NGPE, as described below.

18.10.215 CRITICAL AREA TRACTS

Critical areas tracts are legally created non-building lots containing critical areas and their buffers that shall remain undeveloped pursuant to the Critical Areas Regulations. Separate critical area tracts are not an integral part of the lot in which they are created; are not intended for sale, lease or transfer. The following development proposals shall identify such areas as separate tracts:

- Subdivisions
 - Short subdivisions
 - Planned Unit Developments
 - Binding Site Plans
 - Master Site Plans
 - Site Plan/Design Review
- A. Responsibility for maintaining tracts in compliance with the WSMC and all terms and conditions applied to the tract based on review of required critical area reports and studies shall be held by a homeowners association. This homeowners association shall be created pursuant to RCW Chapter 64.38 and established as a Washington nonprofit corporation. Within three (3) years of creation of the critical areas tract ownership and maintenance of the tract shall be vested in the homeowners’ association. The permit applicant, owner, or other appropriate entity deemed acceptable by the city attorney shall be responsible for maintaining the tract until such time as the homeowners association is duly formed.
- B. The following note shall appear on the face of all plats, binding site plans, master site plans, site plan/design review, or contract rezones and shall be recorded on the title for all affected lots:

“NOTE: All lots adjoining separate tracts identified as Native Growth Protection Easements are jointly and severally responsible for the maintenance and protection of the tracts. Maintenance includes ensuring that no alteration occurs within the separate tract and that vegetation remains undisturbed unless the express written permission of the City of White Salmon as been received.”

- C. The City may waive the requirement that a critical areas tract be created if it is determined that all or the critical majority of a NGPE will be contained in a single ownership without creation of a separate tract.
- D. A critical area tract shall be incorporated in the area of the parent lot for purposes of subdivision density allocation and may be relied on by surrounding parcels to meet minimum lot size requirements. Any portion of the area within the critical area tract may only be included in the calculation of lot area for a single lot.
- E. Where a critical area tract is located in a residential zone and is determined to be of sufficient size to result in the loss of one or more dwelling units that would otherwise have been permissible in this area, such units may be accommodated on another portion of the same site or property, not containing critical area(s), subject to the limitations of this section:
 - 1. If the area within the critical area tract is not included in the calculation of lot area for any surrounding lots.
 - 2. Dwelling units allowed to be relocated due to creation of a critical areas tract shall be computed as follows:
 - a. Determine the net development area - subtract from the total critical areas tract all land physically unsuitable for development e.g. slopes greater than 30%, unstable slopes, actual wetland area, flood hazard area, and publicly owned land. If the net development area is larger than one half (1/2) acre adjusted net development area shall be used.
 - b. Determine the adjusted net development area – For critical area tracts having a net development area larger than one half (1/2) acre subtract the actual area reasonably devoted to a street system necessary to serve resulting parcels, up to 20% of the area.
 - c. Determine the permitted number of dwelling sites for relocation – Divide the net development area for parcels up to one half (1/2) acre or the adjusted net development area for parcels larger than one half (1/2) acre by the minimum single family lot size of the zone district to determine the number of dwelling sites allowed to be relocated. Numbers shall be rounded to the next closest full integer. (e.g. 1.5 = 2 and 1.4 = 1).
- F. Minimum lot sizes when dwelling sites are relocated may need to be less than the minimum parcel size for the zone. Resulting lot sizes shall be allowed to be modified below the minimum lot size in the zone when:

1. the modification of minimum lot size is demonstrated to be the minimum necessary to accommodate the relocated or transferred dwelling sites, and
2. the average lot size of all parcels in the land division shall not be less than:
 - a. 3,500 square feet in R-1 zone (approximately 70% of 5,000 s.f. minimum lot size); or
 - b. 2,500 square feet in the R-2, R-3, or MHR zones (approximately 50% of the 5,000 s.f. minimum lot size.)
 - c. 10,000 square feet in the LR zones (approximately 50% of the 20,000 s.f. minimum lot size.)

18.10.216 MARKING AND/OR FENCING

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

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

CRITICAL AREA BOUNDARY

“Protection of this natural area is in your care. Alteration or disturbance is prohibited. Please call the City of White Salmon for more information. Removal of this sign is prohibited.”

C. Sign Locations. The City or its agent shall approve sign locations during review of the development proposal. Along residential boundaries, the signs shall be at least 4” X 6” in size and spaced one per centerline of lot or every seventy five (75) feet for lots whose boundaries exceed one-hundred-fifty (150) feet. At road endings, crossings, and other areas where public access to the critical area is allowed, the sign shall be a minimum of 18” X 24” in size and spaced one every seventy (75) feet. Alternate sign type and spacing may be approved by the City if the alternate method of signage is determined to meet the purposes of this section.

D. Permanent Fencing. The City or its agent shall require permanent fencing where there is a substantial likelihood of the intrusion into the critical area with the development proposal. The City or its agent shall also require such fencing when, subsequent to approval of the development

proposal; intrusions threaten conservation of critical areas. The City or its agent may use any appropriate enforcement actions including, but not limited to, fines, abatement, or permit denial to ensure compliance. The fencing may provide limited access to the stream or wetland but shall minimize bank disturbance.

18.10.217 CRITICAL AREAS REPORTS/ STUDIES

- A. Timing of Studies. When an applicant submits an application for any development proposal, it shall indicate whether any critical areas or buffers are located on or adjacent to the site. The presence of critical areas may require additional studies and time for review. However, disclosure of critical areas early will reduce delays during the permit review process. If the applicant should disclose there are no known critical areas, further studies may be required for verification.
- B. Studies Required.
1. When sufficient information to evaluate a proposal is not available, the City or its agent shall notify the applicant that a critical areas study and report is required. The City or its agent may hire an independent qualified professional to determine whether a critical areas report is necessary.
 2. When possible, the City may rely on input from a qualified representative of the appropriate resource agency to assist with the determination that a critical areas report is necessary. (e.g. WDFW regional representative may be consulted to determine if the presence of a fish and wildlife conservation area requires a critical areas study.)
 3. If a critical area report is required, the City or its agent may retain independent qualified consultants, at the applicant's expense, to assist in review of studies that are outside the range of staff expertise. The City may develop a list of pre-qualified consultants that can be used by an applicant in order to preclude the need for peer review of submitted reports.
 4. Critical area reports shall be written by a qualified professional, as defined in the definitions section of this Chapter. A critical areas report shall include all information required pursuant to Section 18.10.217.3, below. A monitoring and maintenance program shall be required to evaluate the effectiveness of mitigating measures.
 5. Studies generated as part of an expanded SEPA environmental checklist or an environmental impact statement may qualify as a critical areas report if the project is developed in enough detail to have provided an evaluation of site-specific impacts and mitigation measures.
- C. General Critical Areas Report Requirements.
1. A critical areas report shall have three components: a) a site analysis, b) an impact analysis, and c) proposed mitigation measures. More or less detail may be required for each component depending on the size of the project, severity, and potential impacts. The City or its agent may waive the requirement of any component when adequate information is otherwise available.

2. In addition to the specific requirements specified under each critical area, all studies shall contain the following information unless it is already available in the permit application:

- a. Site map of the project area at a 1:20 or larger scale dimensioned, including:
 - i. Reference streets and property lines.
 - ii. Existing and proposed easements, right-of-ways, trail corridors and structures.
 - iii. Contour intervals (2 feet); steep slope areas to be highlighted.
 - iv. The edge of the 100-year floodplain, and edge of the floodway if appropriate.
 - v. Channel Migration Zone boundaries if appropriate.
 - vi. Shoreline Management Program environmental designation and zone, if appropriate.
 - vii. Hydrology: show surface water features both on and adjacent to the site; show any water movement into, through, and off the project area; show stream and wetlands classifications, show seeps, springs, and saturated soil zones; label wetlands not found on the City inventory maps as un-inventoried.
 - viii. Identification of all site preparation, grading activities and dimensioned location of proposed structures, roads, stormwater facilities, impervious surfaces, and landscaping to critical areas.
 - ix. All drainage plans for discharge of stormwater runoff from developed areas.
 - x. Location of buffer and building setback lines (if required or proposed).
 - xi. Location of sensitive area tract and/or easement.
 - xii. Written report detailing:
 - (a) How, when, and by whom the report was performed (including methodology and techniques);
 - (b) Weather conditions during and prior to any field studies if relevant to conclusions and recommendations;
 - (c) Description of the project site and its existing condition including degraded critical areas;
 - (d) Description of existing critical area and buffer functions and values;
 - (e) Description of habitat features present and determination of actual use of the critical area by any endangered, threatened, rare, sensitive, or unique species of plants or wildlife as listed by the federal government or state of Washington;
 - (f) The total acreage of the site in each type of critical area(s) and associated buffers;

- (g) The proposed action; including but not limited to description of filling, dredging, modification for storm water detention or discharge, clearing, grading, restoring, enhancing, grazing or other physical activities that change the existing vegetation, hydrology, soils or habitat;
- (h) When alteration to a critical area or its buffer is proposed provide an explanation why the impact is unavoidable and how it meets the criteria for a defined exception;
- (i) Description of potential environmental impact of the proposed project to the critical area(s) and demonstration of mitigation sequencing approach, and description of any proposed mitigation measures;
- (j) Habitat and native vegetation conservation strategy that addresses methods to protect and enhance on-site habitat and critical area functions;
- (k) The mitigation measures proposed to avoid or lessen the project impacts (during construction and permanently);
- (l) When alteration to the critical area or its buffer is proposed, include a mitigation plan as specified by this Chapter;
- (m) A discussion of ongoing management practices that will protect habitat after the project site has been developed; including proposed monitoring and maintenance programs.
- (n) Description of local, state, and federal regulations and permit requirements.

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

18.10.218 MITIGATION TIMING

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

18.10.219 GENERAL MITIGATION REQUIREMENTS

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

- A. Restoration/rehabilitation is required when a critical area or its buffers has been altered on the site in violation of City regulations prior to development approval and as a consequence its functions and values have been degraded. Restoration is also required when the alteration occurs in violation of City regulations during the construction of an approved development proposal. At a minimum, all impacted areas shall be restored to their previous condition pursuant to an approved mitigation plan.
- B. Restoration/rehabilitation is required when the critical area or its buffers will be temporarily altered during the construction of an approved development proposal. At a minimum, all impacted areas shall be restored to their previous condition pursuant to an approved mitigation plan. A qualified professional should determine restoration is possible before any temporary disturbance occurs.
- C. Compensation. The goal of compensation is no net loss of critical area/or buffer functions on a development site. Compensation includes replacement or enhancement of the critical area or its buffer depending on the scope of the approved alteration and what is needed to maintain or improve the critical area and/or buffer functions. Compensation for approved critical area or buffer alterations shall meet the following minimum performance standards and shall occur pursuant to an approved mitigation plan:
 - 1. The buffer for a created, restored, or enhanced critical area as compensation for approved alterations shall be the same as the buffer required for the category of the created, restored, or enhanced critical area. For the purposes of restoration, creation, or enhancement, buffers shall be fully vegetated and shall not include lawns, walkways, driveways and other mowed or paved areas.
 - 2. On-site and In-kind. Unless otherwise approved, all critical area impacts shall be compensated for through restoration or creation of replacement areas that are in-kind, on-site, and of similar or better critical area category. Mitigation shall be timed prior to or concurrent with the approved alteration and shall have a high probability of success
 - 3. Off-site and In-kind. The City or its agent may consider and approve off-site compensation where the applicant demonstrates that greater biological and hydrological functions and values will be achieved. The compensation may include restoration, creation, or enhancement of critical areas. The compensation ratios specified under the “on-site” compensation section for each critical area shall apply for off-site compensation as well.
 - 4. Increased Replacement Ratios. The City or its agent may increase the ratios under the following circumstances:
 - a. Uncertainty exists as to the probable success of the proposed restoration or creation due to an unproven methodology or proponent; or

- b. A significant period will elapse between impact and replication of wetland functions; or
 - c. The impact was unauthorized.
 - 5. Decreased Replacement Ratios. The City or its agent may decrease the ratios required in the “on-site” ratios specified under the compensation section of each critical area, when all the following criteria are met:
 - a. A minimum replacement ratio of 1:1 will be maintained;
 - b. Documentation by a qualified specialist demonstrates that the proposed mitigation actions have a very high rate of success;
 - c. Documentation by a qualified specialist demonstrates that the proposed mitigation actions will provide functions and values that are significantly greater than the critical area being impacted; and
 - d. The proposed mitigation actions are conducted in advance of the impact and have been shown to be successful
 - 6. Critical Area Enhancement as Mitigation.
 - a. Impacts to critical areas may be mitigated by enhancement of existing significantly degraded critical areas only after a 1:1 minimum acreage replacement ratio has been satisfied. Applicants proposing to enhance critical areas must produce a critical areas report that identifies how enhancement will increase the functions and values of the degraded critical areas and how this increase will adequately mitigate for the loss of critical area function at the impact site.
 - b. At a minimum, enhancement acreage, provided after a 1:1 replacement ratio has been satisfied, shall be double the acreage required for creation acreage under the “on-site” compensation section specified under each critical area. The ratios shall be greater than double the required acreage when the enhancement proposal would result in minimal gain in the performance of critical area functions currently provided in the critical area.
- D. Mitigation shall be completed immediately following disturbances and prior to use or occupancy of the activity or development, or when seasonally appropriate. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, water quality, and vegetation.

18.10.220 BEST AVAILABLE SCIENCE

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

18.10.221 MITIGATION PLANS

- A. Mitigation or alterations to critical areas shall achieve equivalent or greater biological functions and shall include mitigation for adverse impacts upstream and downstream of the development proposal site. Mitigation sites for wetlands, streams, and fish and wildlife habitat conservation critical areas shall be located to achieve contiguous habitat corridors in accordance with a mitigation plan that is part of an approved critical areas report to minimize the isolating effects of development on habitat areas. Mitigation of aquatic habitat shall be located within the same aquatic ecosystem as the area disturbed. Mitigation shall address each function affected by the alteration to achieve functional equivalency or improvement on a per function basis.
- B. The scope and content of a mitigation plan shall be decided on a case-by-case basis: as the impacts to the critical area increase, the mitigation measures to offset these impacts will increase in number and complexity. The City of White Salmon shall determine during the review of the requested studies which of the components listed in section 3, below shall be required as part of the mitigation plan. Key factors in this determination shall be the size and nature of the development proposal, the nature of the impacted critical areas, and the degree of cumulative impacts on the critical area from other development proposals.
- C. At a minimum, the following components shall be included in a complete mitigation plan:
 - 1. Baseline Information. Provide existing conditions information for both the impacted critical areas and the proposed mitigation site as described in “General critical area report requirements” and “Additional report requirements” for each critical area.”
 - 2. Environmental Goals and Objectives. The mitigation plan shall include a written report identifying environmental goals and objectives of the compensation proposed and including:
 - a. A description of the anticipated impacts to the critical areas, the mitigating actions proposed, and the purposes of the compensation measures, including the site selection criteria, identification of compensation goals, identification of resource functions, and dates for beginning and completing site compensation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area; and
 - b. A review of the best available science supporting the proposed mitigation.
- D. Performance Standards. The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this Chapter have been met. They may include water quality standards, species richness and diversity targets, habitat diversity indices, or other ecological, geological, or hydrological criteria.
- E. Detailed Construction Plan. These are the written specifications and descriptions of mitigation technique. This plan should include the proposed construction sequencing, grading and excavation details, erosion and sedimentation control features, a native planting plan, and detailed site diagrams and any other drawings appropriate to show construction techniques or anticipated final outcome.
- F. Monitoring and/or Evaluation Program. The mitigation plan shall include a program for monitoring construction of the compensation project, and for assessing a completed project, as detailed under section M, below.

- G. Contingency Plan. This section identifies potential courses of action, and any corrective measures to be taken when monitoring or evaluation indicates projected performance standards have not been met.

18.10.222 MONITORING

- A. The City will require long-term monitoring of development proposals where alteration of critical areas or their buffers are approved. Such monitoring shall be an element of the required mitigation plan and shall document and track impacts of development on the functions and values of critical areas, and the success and failure of mitigation requirements. Monitoring may include, but is not limited to:
1. Establishing vegetation transects or plots to track changes in plant species composition over time;
 2. Using aerial or other photography to evaluate vegetation community response;
 3. Sampling surface and ground waters to determine pollutant loading;
 4. Measuring base flow rates and stormwater runoff to model and evaluate water quantity predictions;
 5. Measuring sedimentation rates; and
 6. Sampling fish and wildlife populations to determine habitat utilization, species abundance, and diversity;
 7. Sampling of water temperatures for wetlands and streams.
8. The property owner will be required to submit monitoring data and reports to the City on an annual basis or other schedule as required by the City or its agent. Monitoring shall continue for a minimum period of five (5) years or for a longer period if necessary to establish that the mitigation performance standards have been met.
9. Performance Bond. Prior to issuance of any permit or approval, which authorizes site disturbance under this Chapter, the City or its agent shall require performance security as specified in Section 18.10.100, Administration.

18.10.223 CONTINGENCIES/ADAPTIVE MANAGEMENT

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

18.10.224 HABITAT MANAGEMENT PLANS

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

- A. A Habitat Management Plan, prepared by a qualified biologist in consultation with WDFW, shall address the following mitigation measures:
1. Reduction or limitation of development activities within the critical area and buffers;
 2. Use of low impact development techniques or clustering of development on the subject property to locate structures in a manner that preserves and minimizes the adverse effects to habitat areas;
 3. Seasonal restrictions on construction activities on the subject property;
 4. Preservation and retention of habitat and vegetation on the subject property in contiguous blocks or with connection to other habitats that have a primary association with a listed species;
 5. Establishment of expanded buffers around the critical area;
 6. Limitation of access to the critical area and buffer; and
 7. The creation or restoration of habitat area for listed species.

SECTION 18.10.300

FISH AND WILDLIFE HABITAT CONSERVATION AREAS

SUB-SECTIONS:

18.10.310 PURPOSE

18.10.311 DESIGNATION

18.10.312 BUFFERS

18.10.313 GENERAL PERFORMANCE STANDARDS

18.10.314 SPECIAL PROVISIONS - STREAMS

18.10.315 SPECIAL PROVISIONS - ANADROMOUS FISH

18.10.316 NATIVE GROWTH PROTECTION EASEMENT/CRITICAL AREA TRACT

18.10.317 SPECIAL PROVISIONS - HERITAGE TREES

18.10.318 CRITICAL AREAS REPORT

18.10.310 PURPOSE

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

18.10.311 DESIGNATION

- A. For purposes of these regulations fish and wildlife conservation areas are those habitat areas that meet any of the following criteria:
 - 1. Documented presence of species listed by the federal government or the State of Washington as endangered, threatened, and sensitive species; or
 - 2. Sites containing and located within 300 feet of habitat for Priority Habitat Species as listed and mapped by WDFW including:
 - a. california mountain kingsnake

- b. mountain quail
 - c. Vaux's swift
 - d. bald eagle habitat;
 - e. heron rookeries or active nesting trees;
 - f. golden eagle habitat;
 - g. peregrine falcon habitat;
 - h. pilliated woodpecker;
 - i. larch mountain salamander;
 - j. western pond turtle;
 - k. Lewis' woodpecker;
 - l. osprey;
 - m. spotted owl; or
 - n. goshawk
 - o. western gray squirrel
 - p. mule and black-tailed deer
 - q. resident cut throat
 - r. salmonid species
 - i. coho salmon
 - ii. summer steelhead
 - iii. winter steelhead
 - iv. rainbow trout
 - s. waterfowl concentrations
3. Priority habitats mapped by WDFW including:
 - a. Cliffs / bluffs
 - b. Talus slopes
 - c. Snag patches having 10 snags or more
 - d. Pine Oak/Oak woodlands – Oregon white oak woodland
 - e. Wetlands
 - f. Riparian areas
 4. All streams which meet the criteria for streams set forth in WAC 222-16-030 and based on the interim water typing system in WAC 222-16-031
 5. Heritage tree sites

B. All areas within the City meeting one or more of the above criteria, regardless of any formal identification, are designated critical areas and are subject to the provisions of this Chapter. The approximate location and extent of known fish and wildlife habitat conservation areas are shown on the critical area maps kept on file at the City. Wildlife data is sensitive, changes, and protection requirements vary depending on specific site and area characteristics. WDFW will be consulted to verify the presence of critical

habitat areas. Access to the maps will be limited to a need to know basis for individual project proposals, due to the sensitivity of the information in the maps.

18.10.312 BUFFERS

A. Riparian Habitat

1. Inventoried creeks in White Salmon city limits and urban growth boundary include White Salmon River, Columbia River, Jewett Creek, and Dry Creek. The following buffers are the minimum requirements for streams. All buffers shall be measured from the ordinary high water mark (OHWM).

Stream Type	Characteristic
Type S Water	Waters identified as shorelines of the state (Columbia River)
Type F Water	Perennial or fish bearing waters (Including but not limited to Hamilton Creek; Greenleaf Lake; Hamilton Springs; Greenleaf Creek; Moffet Creek; Bass Lake; Carpenter Creek)
Type Np Water	Less than 3 feet in width on average
Type Ns Water	Seasonal streams with a defined channel

Permanent Water Typing	Buffer Width	Interim Water Typing
Type "S"	200'	Type 1 Water
Type "F"	200'	Type 2 and 3 Water
Type "Np"	75'	Type 4 Water
Type "Ns"	50'	Type 5 Water

B. Wildlife and Other Habitat

Buffer widths and setbacks for the protection of listed species outside of streams and stream buffers will be determined on a site-specific basis through the approval of a Critical Areas Report.

18.10.313 GENERAL PERFORMANCE STANDARDS

The requirements provided in this sub-section supplement those identified in Section 18.10.200 *General Provisions*. All new structures and land alterations shall be prohibited from habitat conservation areas, except in accordance with this Chapter. Additional standards follow:

- A. No development shall be allowed within a habitat conservation area or any associated buffer with which state or federally endangered, threatened, or sensitive species have a primary association.
- B. Whenever development is proposed adjacent to a fish and wildlife habitat conservation area with which state or federally endangered, threatened, or sensitive species have a primary association, such areas shall be protected through the application of protection measures in accordance with a critical areas report prepared by a qualified professional and approved by the City or its agent. WDFW should be consulted to provide a technical review and an advisory role in defining the scope of the habitat study.
- C. Habitat Study. Development proposals or alterations adjacent to and within 300 feet of a fish and wildlife habitat conservation area shall prepare, and submit, as part of its Critical Areas Study, a habitat study which identifies which, if any, listed species are using that fish and wildlife habitat conservation area. If one or more listed species are using the fish and wildlife habitat conservation area, the following additional requirements shall apply:
 - 1. The applicant shall include in its Critical Areas Study a Habitat Management Plan which identifies the qualities that are essential to maintain feeding, breeding, and nesting of listed species using the fish and wildlife habitat conservation area and which identifies measures to minimize the impact on these ecological processes from proposed activities. The applicant shall be guided by the document Management Recommendations for Washington's Priority Habitats and Species, issued by the Washington Department of Wildlife, May 1991, and as may be amended, and by any recovery and management plans prepared by the Washington Department of Wildlife for the listed species pursuant to WAC 232-12-297(11).
 - 2. Conditions shall be imposed, as necessary, based on the measures identified in the habitat management plan.
 - 3. The 200-foot buffer from "S" and "F" type streams may be adjusted down to 150 feet in specific instances with no additional review and with the concurrence of WDFW. Further modification or adjustment of buffer widths when a narrower buffer is sufficient to protect specific stream functions and values in a specific location may be achieved in consultation with WDFW subject to additional review of critical areas report and habitat study.

4. Approval of alteration of land adjacent to the habitat conservation area, buffer or any associated setback zone shall not occur prior to consultation with the state Department of Fish and Wildlife and the appropriate federal agency.
- D. No plant, wildlife, or fish species not indigenous to the region shall be introduced into a habitat conservation area unless authorized by a state or federal permit or approval.
- E. Alteration of natural watercourses shall be avoided.
- F. The City or its agent shall condition approval of activities allowed adjacent to a fish and wildlife habitat conservation area or its buffer, as necessary, per the approved critical area report and habitat management plan to minimize or mitigate any potential adverse impacts. Performance bonds as defined by this chapter may also be made a condition of approval in accordance with the provisions of this chapter.

18.10.314 SPECIAL PROVISIONS – STREAMS

The requirements provided in this section supplement those identified in Section 18.10.200 *General Provisions*.

- A. Type S and F Streams. Activities and uses shall be prohibited in Type S and F streams except as provided for in Sections 25.05.100 Administration, and the allowable activities and uses listed below.
 1. Stream Crossings. Stream crossing shall be minimized, but when necessary they shall conform to the following standards as well as other applicable laws (see the state Department of Fish and Wildlife, or Ecology):
 - a. The stream crossing is the only reasonable alternative that has the least impact;
 - b. It has been shown in the critical areas report that the proposed crossing will not decrease the stream and associated buffer functions and values;
 - c. The stream crossing shall use bridges instead of culverts unless it can be demonstrated that a culvert would result in equal or less ecological impacts;
 - d. All stream crossings using culverts shall use super span or oversized culverts with appropriate fish enhancement measures. Culverts shall not obstruct fish passage;
 - e. Stream crossings shall be designed according to the Washington Department of *Fish and Wildlife Fish Passage Design at Road Culverts*, 1999, and the National Marine Fisheries Service *Guidelines for Salmonid Passage at Stream Crossings*, 2000;

- f. All stream crossings shall be constructed during the summer low flow period between July 1st and August 15th or as specified by the state Department of Fish and Wildlife in the Hydraulic Project Approval;
 - g. Stream crossings shall not occur through salmonid spawning areas unless no other feasible crossing site exists;
 - h. Bridge piers or abutments shall not be placed in either the floodway or between the ordinary high water marks unless no other feasible alternative placement exists;
 - i. Stream crossings shall not diminish the flood carrying capacity of the stream;
 - j. Stream crossings shall minimize interruption of downstream movement of wood and gravel;
 - k. Stream crossings shall provide for maintenance of culverts and bridges; and
 - l. Stream crossings shall be minimized by serving multiple properties whenever possible.
2. Trails. The criteria for alignment, construction, and maintenance of trails within wetlands and their buffers shall apply to trails within stream buffers.
 3. Utilities. The criteria for alignment, construction, and maintenance within the wetland buffers shall apply to utility corridors within stream buffers. In addition, corridors shall not be aligned parallel with any stream channel unless the corridor is outside the buffer, and crossings shall be minimized. Installation shall be accomplished by boring beneath the scour depth and hyporheic zone of the water body where feasible. Crossings shall be contained within the existing footprint of an existing road or utility crossing where possible. Otherwise, crossings shall be at an angle greater than sixty degrees to the centerline of the channel. The criteria for stream crossing shall also apply.
 4. Stormwater facilities provided that they are located in the outer 25 percent of the buffer and are located in the buffer only when no practicable alternative exists outside buffer. Stormwater facilities should be planted with native plantings where feasible to provide habitat, and/or less intrusive facilities should be used Detention/retention ponds should not be located in the buffer.
 5. Floodway Dependent Structures. Floodway dependent structures or installations may be permitted within streams if allowed or approved by other ordinances or other agencies with jurisdiction.
 6. Stream bank stabilization shall only be allowed when it is shown, through a stream bank stability assessment conducted by a qualified fluvial geomorphologist or hydraulic engineer, that such stabilization is required for public safety reasons, that no other less intrusive actions are possible, and that the stabilization will not degrade in-stream or downstream channel stability. Stream bank stabilization shall utilize bioengineering or soft armoring techniques unless otherwise demonstrated. Stream bank stabilization shall conform to the *Integrated Streambank Protection Guidelines* developed by the Washington State Department of Fish and Wildlife, 2002 or as revised. Stabilization measures must demonstrate the following:

- a. Natural shoreline processes will be maintained. The project will not result in increased erosion or alterations to, or loss of, shoreline substrate within ¼ mile of the project area;
 - b. The stabilization measures will not degrade fish or wildlife habitat conservation areas or associated wetlands;
 - c. Adequate mitigation measures ensure that there is no net loss of the functions or values of riparian habitat;
7. Maintenance of lawfully-established existing bank stabilization is allowed provided it does not increase the height or linear amount of bank and does not expand waterward or into aquatic habitat landward.
8. Clearing or development in riparian habitat areas which is at least one hundred (100) feet from the waterline and separated by a continuous public or private roadway serving three (3) or more lots.
- B. Type N Streams. Activities and uses that result in unavoidable and necessary impacts may be permitted in Type N streams and buffers in accordance with an approved critical areas report and mitigation plan, and only if the proposed activity is the only reasonable alternative that will accomplish the applicant's objectives.

18.10.315 SPECIAL PROVISIONS - ANADROMOUS FISH

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

18.10.316 NATIVE GROWTH PROTECTION EASEMENT/CRITICAL AREA TRACT

- A. An NGPE as defined in Section 18.10.200 *General Provisions* shall be designated for Type S and F streams when located within one-quarter (0.25) mile of a stream with salmonids, unless the City or its agent has waived the NGPE requirements (see below), or where the alteration section expressly exempts Type N streams, when beyond one-quarter (0.25) mile of a stream with salmonids, from an NGPE. Where a stream or its buffer has been altered on the site prior to approval of the development proposal as a result of the development proposal, the area altered shall be restored using native plants and materials. The restoration work shall be done pursuant to an approved mitigation plan.

- B. The City or its agent may waive the NGPE requirements on Type N streams, when located beyond one-quarter (0.25) mile of a stream with salmonids if all the following criteria are met:
 - 1. All buffer, building setback line, and flood plain distances are identified on the appropriate documents of title;
 - 2. The stream channel and buffer are maintained as a vegetated open swale without altering the channel dimensions or alignment and are recorded in a drainage easement to the City of White Salmon that requires that the channel remain open and vegetated for water quality and hydrologic purposes;
 - 3. All clearing proposed within the stream and its buffer shall occur between April 1 and September 1, or as further restricted by timing limits established by the State Department of Fish and Wildlife, and shall meet all erosion and sedimentation requirements of the City;
 - 4. There are no downstream flooding or erosion problems within one-half (0.5) mile of the site;
 - 5. The stream is not within an erosion hazard area; and
 - 6. No existing water wells are within or adjacent to the stream.

18.10.317 SPECIAL PROVISIONS - HERITAGE TREES

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

- B. Heritage Trees include:

1. Oregon White Oaks with a trunk diameter larger than 14 inches,
2. All other tree species with a trunk diameter greater than 18 inches, or
3. Any tree designated as a heritage tree by the City Council in accordance with the nomination process detailed below.

To be considered a Heritage Tree the tree must be nominated by the landowner of the ground sustaining the tree and be accepted by the City onto the inventory list of Heritage Trees compiled and maintained by the City.

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

1. Trees with smaller trunk diameters may also be nominated for heritage status by the property owner, by submitting a map, a photograph, and a narrative description including the location, species, approximate age, and the specific characteristics and reasoning on which the nomination is based. To receive such a designation, a tree must be an outstanding specimen, especially old or large, or of distinctive form, location, or of ecological, cultural or historical significance.
2. The City shall inspect the tree, consider public comments, consult with a certified arborist if relevant, and decide whether or not the tree is to be designated a heritage tree. Notice of the City's decision shall be mailed to the land owner and any other parties participating in the evaluation process.
3. The Council may be asked to reverse its designation of a Heritage Tree.

D. Tree inventory is required.

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

E. Maintenance and preservation of heritage trees is required.

1. Any owner or applicant shall use reasonable efforts to maintain and preserve all heritage trees located thereon in a state of good health pursuant to the provisions of this chapter. Failure to do so shall constitute a violation of this chapter. Reasonable efforts to protect heritage trees include:
 - a. Avoidance of Grading, excavation, demolition or construction activity within the heritage tree protection area where possible. The City shall consider special variances to allow location of structures outside the building setback line of a heritage tree whenever it is reasonable to approve such variance to yard requirements or other set back requirements.
 - b. Grading, excavation, demolition or construction activity within the heritage tree protection area shall require submittal of a tree protection plan, prepared in accordance applicable guidelines for a Critical Area Report and Habitat Management Plan per Section 18.10.200, *General Provisions*.
 - c. Consideration of the habitat or other value of mature trees in the request

for a variance or other modification of land use standards may require listing of the tree as a heritage tree. Once listed for protection approval of variances or modification of standards are considered reasonable actions and not the result of a self created hardship.

2. The Critical Area Report for purpose of this section shall include a heritage tree protection plan and shall be prepared by a certified arborist. The plan shall address issues related to protective fencing and protective techniques to minimize impacts associated with grading, excavation, demolition and construction. The City may impose conditions on any permit to assure compliance with this section. (Note: Some provisions in section 18.10.200, such as 18.10.211 *Buffers*, 18.10.214 *Native growth protection easement*, 18.10.215 *Critical areas tracts*, and 18.10.216 *Marking and/ or fencing requirements*; may not be applicable to protection areas for heritage trees).
3. Building set back lines stipulated by sub-section 18.10.212 shall be measured from the outer line of the tree protection area for heritage trees.
4. Review and approval of the critical areas report and tree protection plan by the City is required prior to issuance of any permit for grading or construction within the heritage tree protection area.
5. In lieu of the NGPE required in sub-section 18.10.214, a Heritage Tree Protection Easement (HTPE) shall be required. A HTPE is an easement granted to the City for the protection of a heritage tree protection area. HTPE's shall be required as specified in these rules and shall be recorded on final development permits and all documents of title and with the county Recorder at the applicant's expense. The required language is as follows:

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

- F. Heritage tree removal and major pruning is prohibited. It is unlawful for any person to remove, or cause to be removed any heritage tree from any parcel of property in the City, or prune more than one-fourth of the branches or roots within a twelve (12) month period, without obtaining a permit; provided, that in case of emergency, when a tree is imminently hazardous or dangerous to life or property, it may be removed by order of the police chief, fire chief, the Director of Public Works or their respective designees. Any person who vandalizes, grievously mutilates, destroys or unbalances a heritage tree without a permit or beyond the scope of an approved permit shall be in violation of this chapter.

- G. Exceptions to the provisions in this section include:
1. A heritage tree can be removed if it is dead, dangerous, or a nuisance, as attested by an arborist's report, submitted to the City and paid for by the tree owner or by order of the police chief, fire chief, the Director of Public Works or their respective designees.
 2. A heritage tree in or very close to the "building area" of an approved single family residence design can be replaced by another tree. A heritage tree can be removed if its presence reduces the building area of the lot by more than 50% after all potential alternatives including possible set backs to minimum yard depth and width requirements have been considered.
 3. Any person desiring to remove one or more heritage trees or perform major pruning (per sub-section 18.10.316 F, above) shall apply for an exception pursuant to procedures established by this section rather than sub-section 18.10.125 *Exceptions*, which generally applies elsewhere in this chapter.
 4. It is the joint responsibility of the property owner and party removing the heritage tree or trees, or portions thereof to obtain exception. The City may only issue a permit for the removal or major pruning of a heritage tree if it is determined that there is good cause for such action. In determining whether there is good cause, the City shall consult with a certified arborist, paid for by the applicant, as appropriate. The City shall also give consideration to the following:
 - a. The condition of the tree or trees with respect to disease, danger of falling, proximity to existing or proposed structures and interference with utility services;
 - b. The necessity to remove the tree or trees in order to construct proposed improvements to the property;
 - c. The topography of the land and the effect of the removal of the tree on erosion, soil retention and diversion or increased flow of surface waters;
 - d. The long-term value of the species under consideration, particularly lifespan and growth rate;
 - e. The ecological value of the tree or group of trees, such as food, nesting, habitat, protection and shade for wildlife or other plant species;
 - f. The number, size, species, age distribution and location of existing trees in the area and the effect the removal would have upon shade, privacy impact and scenic beauty;
 - g. The number of trees the particular parcel can adequately support according to good arboricultural practices; and
 - h. The availability of reasonable and feasible alternatives that would allow for the preservation of the tree(s).
- H. City enforcement of heritage tree protection regulations may include:
1. Stop work on any construction project which threatens a heritage tree until it is shown that appropriate measures have been taken to protect the tree or an exception is granted for its removal; and/or
 2. As part of a civil action brought by the City, a court may assess against any

person who commits, allows, or maintains a violation of any provision of this chapter a civil penalty in an amount not to exceed five thousand dollars (\$5,000.00) per violation. Where the violation has resulted in removal of a tree, the civil penalty shall be in an amount not to exceed five thousand dollars (\$5,000.00) per tree unlawfully removed, or the replacement value of each such tree, whichever amount is higher. Such amount shall be payable to the City. Replacement value for the purposes of this section shall be determined utilizing the most recent edition of the Guide for Plant Appraisal, published by the Council of Tree and Landscape Appraisers.

18.10.318 CRITICAL AREAS REPORT

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

- A. In addition to the requirements of Section 18.10.200 *General Provisions*, Critical Area Reports for wildlife habitat areas shall include the following additional information:
 - a. An assessment of habitats including the following site and proposal related information;
 - b. Identification of any species of local importance; priority species; or endangered, threatened, sensitive or candidate species that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species;
 - c. A discussion of any federal, state, or local species management recommendations, including the state Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitat located on or adjacent to the project area.

- B. A critical areas report for streams shall include the following information:
 - 1. On the site map:
 - a. The location of the ordinary high water mark;
 - b. The toe of any slope twenty-five percent (25%) or greater within twenty-five (25) feet of the ordinary high water mark;
 - c. The location of any proposed or existing stream crossing,
 - 2. In the report:

- a. Characterization of riparian (streamside) vegetation species, composition, and habitat function;
- b. Description of the soil types adjacent to and underlying the stream, using the Soil Conservation Service soil classification system;
- c. Determination of the presence or absence of fish, and reference sources; and
- d. When stream alteration is proposed, include stream width and flow, stability of the channel including erosion or aggradation potential, type of substratum, discussions of infiltration capacity and biofiltration as compared to the stream prior to alteration, presence of hydrologically linked wetlands, analysis of fish and wildlife habitat, and proposed floodplain limits.

SECTION 18.10.400

GEOLOGICALLY HAZARDOUS AREAS

SUB-SECTIONS:

- 18.10.410 PURPOSE
- 18.10.411 DESIGNATION
- 18.10.412 PROHIBITED DEVELOPMENT AND ACTIVITIES
- 18.10.413 PERFORMANCE STANDARDS
- 18.10.414 SPECIAL PROVISIONS – EROSION AND LANDSLIDE AREAS
- 18.10.415 DESIGN STANDARDS – EROSION AND LANDSLIDE HAZARD AREAS
- 18.10.416 NATIVE GROWTH PROTECTION EASEMENT/CRITICAL AREA TRACT
- 18.10.417 CRITICAL AREAS REPORT

18.10.410 PURPOSE

To prevent incompatible development activity to be conducted in or near geologically hazardous areas in order to reduce the risk to public health and safety.

18.10.411 DESIGNATION

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

- A. *Erosion hazard.* Erosion hazard areas are at least those areas identified by the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) as having "severe" or "very severe" rill and inter-rill erosion hazard.
- B. *Landslide hazard (including steep slopes).* Landslide hazard areas are areas potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors.
- C. *Seismic hazard.* Seismic hazard areas are subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction, lateral spreading, or surface failure. The strength of ground shaking is primarily affected by:
 - 1. The magnitude of an earthquake;
 - 2. The distance from the source of an earthquake;
 - 3. The type and thickness of geologic materials at the surface;
 - 4. The type of subsurface geological structure.
- D. *Other geological events* including, mass wasting, debris flows, rock falls, and differential settlement.

18.10.412 PROHIBITED DEVELOPMENT AND ACTIVITIES

- A. On-site sewage disposal systems, including drain fields, shall be prohibited within erosion and landslide hazard areas and associated buffers.
- B. Pipelines containing hazardous substances (i.e. petroleum) are prohibited in geologically hazardous areas.
- C. Slopes between 15 and 40 percent are generally considered buildable, however, the City or its agent may require an applicant to provide substantial evidence that a slope between 15 and 40 percent is geologically stable if there is evidence that similarly situated slopes have demonstrated substantial instability in the past.
- D. Lands with slopes of 40 percent or greater are considered unbuildable and development is not allowed.

18.10.413 PERFORMANCE STANDARDS

- A. All projects shall be evaluated to determine whether the project is proposed to be located in a geologically hazardous area, the project's potential impact on the geologically hazardous area, and the potential impact on the proposed project. The City or its agent may require the preparation of a critical area report to determine the project's ability to meet the performance standards.
- B. Alterations of geologically hazardous areas or associated buffers may only occur for activities that:
 - 1. The City determines no other feasible alternative route or location exists.
 - 2. Will not increase the threat of the geological hazard to or need for buffers on adjacent properties beyond pre-development conditions;
 - 3. Will not adversely impact other critical areas;
 - 4. Are designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than pre-development conditions; and
 - 5. Are certified as safe as designed and under anticipated conditions by a qualified geotechnical engineer or geologist, licensed in the state of Washington.
- C. Vegetation shall be retained unless it can be shown that the removal will not increase the geologic hazards, and a vegetation management plan is submitted with the request.

- D. Approved clearing shall only be allowed from May 1st to October 1st of each year provided that the City may extend or shorten the dry season on a case-by-case basis depending on the actual weather conditions, except that timber harvest, not including brush clearing or stump removal, may be allowed pursuant to an approved forest practices permit issued by WDNR.

18.10.414 SPECIAL PROVISIONS – EROSION AND LANDSLIDE AREAS

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

- A. Buffers required. A buffer shall be established for all edges of erosion or landslide hazard areas. The size of the buffer shall be determined by the City or its agent to eliminate or minimize the risk of property damage, death, or injury resulting from erosion and landslides caused in whole or part by the development, based upon review of and concurrence with a critical areas report prepared by a qualified professional.
- B. Minimum buffers. The minimum buffer shall be equal to the height of the slope, or fifty (50) feet, whichever is greater.
- C. Buffer reduction. The buffer may be reduced to a minimum of ten (10) feet when a qualified professional demonstrates to the City or its agent's satisfaction that the reduction will adequately protect the proposed development, adjacent developments and, uses and the subject critical area.
- D. Increased buffer. The buffer may be increased when the City or its agent determines a larger buffer is necessary to prevent risk of damage to proposed and existing development.
- E. Alterations. Alterations of an erosion or landslide hazard area and/or buffer may only occur for activities for which a geotechnical analysis is submitted and certifies that:
 - 1. The development will not increase surface water discharge or sedimentation to adjacent properties beyond the pre-development condition;
 - 2. The development will not decrease slope stability on adjacent properties; and
 - 3. Such alteration will not adversely impact other critical areas.

18.10.415 DESIGN STANDARDS – EROSION AND LANDSLIDE HAZARD AREAS

Development within an erosion or landslide hazard area and/or buffer shall be designed to meet the following basic requirements unless it can be demonstrated that an alternative design that deviates from one or more of these standards provides greater long-term slope stability while

meeting all other provisions of this Chapter. The requirements for long-term slope stability shall exclude designs that require regular and periodic maintenance to maintain their level of function. The basic development design standards are:

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

18.10.416 NATIVE GROWTH PROTECTION EASEMENT/CRITICAL AREA TRACT

As part of the implementation of approved development applications and alterations, geologically hazardous areas and any associated buffers that remain undeveloped pursuant to the Critical Areas Regulations, in accordance with Section 18.10.200 *General Provisions*, shall be designated as Native Growth Protection Easements (NGPE) and critical area tracts as applicable.

18.10.417 CRITICAL AREAS REPORT

- A. When required, a critical areas report for a geologically hazardous area shall be prepared by an engineer or geologist, licensed in the state of Washington, with experience analyzing geologic, hydrogeologic, and ground water flow systems, and who has experience preparing reports for the relevant type of hazard.
- B. In addition to the requirements of Section 18.10.200 *General Provisions*, critical area reports are required for geologically hazardous areas shall include the following additional information:
 - 1. On the site map:
 - 2. All geologically hazardous areas within or adjacent to the project area or that have potential to be affected by the proposal;

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

SECTION 18.10.500

Flood Hazard Areas

SUB-SECTIONS:

18.10.510 PURPOSE

18.10.511 CITY-ADOPTED FLOOD HAZARD ORDINANCE APPLIES

18.10.510 PURPOSE

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

18.10.511 CITY-ADOPTED FLOOD HAZARD ORDINANCE APPLIES

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

SECTION 18.10.600

CRITICAL AQUIFER RECHARGE AREAS

SUB-SECTIONS:

18.10.610 PURPOSE

18.10.611 DESIGNATION

18.10.612 FUTURE DESIGNATIONS

18.10.610 PURPOSE

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

18.10.611 DESIGNATION

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

18.10.612 FUTURE DESIGNATIONS

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

SECTION 18.10.700

WETLAND CRITICAL AREAS

SUB-SECTIONS:

- 18.10.710 PURPOSE
- 18.10.711 DESIGNATION
- 18.10.712 BUFFERS
- 18.10.713 GENERAL PERFORMANCE STANDARDS
- 18.10.714 PERMITTED ALTERATIONS
- 18.10.715 CRITICAL AREAS REPORT/STUDY
- 18.10.716 WETLAND MITIGATION REQUIREMENTS
- 18.10.717 FEE-IN-LIEU MITIGATION

18.10.710 PURPOSE

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

18.10.711 DESIGNATION

Determination of wetland ratings will be based on the entire extent of wetlands, unrelated to property lines or ownership patterns. For the purpose of categorization, wetlands shall be designated according to the Washington State Wetland Rating System applicable to the White Salmon Area.

18.10.712 BUFFERS

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

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

TABLE 18.10: 4			
Buffers Required to Protect Habitat Functions in Category I and II Wetlands			
Habitat Score in the Rating Form	Low Intensity Use	Moderate Intensity Use	High Intensity Use
19 points or less	See Table 21.10.070-1	See Table 21.10.070-1	See Table 21.10.070-1
20	60 ft.	75 ft.	100 ft.
21	70	85	100
22	80	95	120
23	90	105	140
24	100	115	160
25	110	125	180
26	120	135	200
27	130	145	220
28	140	165	240
29	150	185	260
30	150	205	280
31 points or greater	150	225	300

TABLE 18.10: 5			
Buffers Required to Protect Habitat Functions in Category III Wetlands			
Habitat Score in the Rating Form	Low Intensity Use	Moderate Intensity Use	High Intensity Use
20 points or less	See Table 21.10.070-1	See Table 21.10.070-1	See Table 21.10.070-1
21	45 ft.	65 ft.	90 ft.
22	50	70	100
23	55	80	110
24	60	90	120
25	65	100	130
26	70	105	140
27 points or greater	75 ft.	110 ft.	150 ft.

TABLE 18.10: 6					
Land Use Intensity Matrix ¹					
Parks and Recreation	Streets and Roads	Stormwater Facilities	Utilities	Commercial /Industrial	Residential ²

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

- B. Any wetland created as compensation for approved wetland alteration shall have the standard buffer required for the new classification of the created wetland. Wetlands to be created shall be located such that the new associated wetland buffer does not cross onto adjacent property, unless the same property owner owns the adjacent property.
- C. Un-inventoried wetlands shall be assigned a rating based on the wetland report and field verification, and the appropriate buffer shall apply.

18.10.713 GENERAL PERFORMANCE STANDARDS

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

18.10.714 PERMITTED ALTERATIONS

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

- A. Conservation or preservation activities that improve the function of the wetland.
- B. Modifications to existing structures where no further alteration or increase in footprint will occur.
- C. Trails. Public and private trails may be allowed within all wetland buffers where it can be demonstrated in a critical areas report that the wetland and wetland buffer functions and values will not be degraded by trail construction or use. Trail planning, construction, and maintenance shall adhere to the following criteria:
 - 1. Trail alignment shall follow a path beyond a distance from the wetland edge equal to seventy-five percent (75%) of the buffer width except as needed to access viewing platforms. Trails may be placed on existing levees or railroad grades within these limits;
 - 2. Trails and associated viewing platforms shall be constructed of pervious materials, unless necessary for conformance to the Americans with Disabilities Act. The trail surface shall meet all other requirements, including water quality standards set forth in the Washington State Department of Ecology *Stormwater Management Manual for Western Washington*, August 2001 or as revised;
 - 3. Trail alignment shall avoid trees in excess of six inches in diameter of any tree trunk at a height of four and a half (4.5) feet above the ground on the upslope side of the tree;
 - 4. Trail construction and maintenance shall follow the U.S. Forest Service *Trails Management Handbook* (FSH 2309.18, June 1987) and *Standard Specifications for Construction of Trails* (EM-7720-102, June 1984 or as revised);
 - 5. Access trails to viewing platforms within the wetland may be provided. Trail access and platforms shall be aligned and constructed to minimize disturbance to valuable functions of the wetland or its buffer and still provide enjoyment of the resource.
 - 6. Buffer widths shall be increased, where possible, equal to the width of the trail corridor, including disturbed areas; and
 - 7. Equestrian trails shall be located or measures provided to assure that runoff from the trail does not directly discharge to the wetland.
- D. Public Roads and Utilities. Footprint expansion of public roads and utilities may occur to maintain locally established levels of service, and to provide for and protect public safety when no lesser impacting option is feasible and the width of the corridor is

minimized to the maximum extent possible. Public and private utility corridors, not covered by the exceptions section in this chapter, may be allowed within wetland buffers for Category II, III, and IV wetlands when no lesser impacting alternative alignment is feasible, and wetland and wetland buffer functions and values will not be degraded. Utilities, whenever possible, shall be constructed in existing, improved roads, drivable surface or shoulder, subject to compliance with road maintenance BMP's, or within an existing utility corridor. Otherwise, corridor alignment, construction, restoration and maintenance shall adhere to the following criteria:

1. Corridor alignment shall follow a path beyond a distance from the wetland edge equal to seventy-five percent (75%) of the buffer width, except when crossing a Category IV wetland and its buffer;
2. Corridor construction and maintenance shall maintain and protect the hydrologic and hydraulic functions of the wetland and the buffer;
3. Corridors shall be fully revegetated with appropriate native vegetation upon completion of construction; and
4. Utilities requiring maintenance roads shall be prohibited in wetland buffers unless the following criteria are met:
 - a. There are no lesser impacting alternatives;
 - b. Any required maintenance roads shall be no greater than fifteen (15) feet wide. Roads shall closely approximate the location of the utility to minimize disturbances; and
 - c. The maintenance road shall be constructed of pervious materials and designed to maintain and protect the hydrologic functions of the wetland and its buffer.

18.10.715 CRITICAL AREAS REPORT/STUDY

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

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

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

18.10.716 WETLAND MITIGATION REQUIREMENTS

No net loss of wetland functions and values shall occur as a result of the overall project. If a wetland alteration is allowed, then the associated impacts will be considered unavoidable. In addition to the requirements in Section 25.05.200, General Provisions, the following mitigation measures to minimize and reduce wetland impacts shall be required:

- A. Mitigation shall achieve equivalent or greater biological functions. Mitigation plans shall be consistent with the state Department of Ecology *Guidelines for Developing Freshwater Wetland Mitigation Plans and Proposals*, 1994, as revised.
- B. Preference of mitigation actions. Mitigation actions that require compensation shall occur in the following order of preference:
 1. Restoring wetlands on upland sites that were formerly wetlands.
 2. Creating wetlands on disturbed upland sites such as those with vegetation cover consisting primarily of non-native introduced species. This should only be attempted when there is a consistent source of hydrology and it can be shown that the surface and subsurface hydrologic regime is conducive for the wetland community that is designed.
 3. Enhancing significantly degraded wetlands only after a minimum 1:1 replacement ratio has been met.
- C. On-site and off-site Mitigation. Unless otherwise approved, all wetland impacts shall be compensated for through restoration or creation of replacement wetlands that are in-kind, on-site, and of similar or better wetland category. Mitigation shall be timed prior to or concurrent with the approved alteration and shall have a high probability of success. The following ratios shall apply to wetland restoration and creation for mitigation:

TABLE 18.10: 7 Standard Wetland Mitigation Ratios					
Wetland to be Replaced	Reestablishment or Creation	Rehabilitation	Reestablishment or Creation and Rehabilitation	Reestablishment or Creation and Enhancement	Enhancement

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

TABLE 18.10: 8 Wetland Preservation Ratios for Category I and II Wetlands				
In Addition to Standard Mitigation			As the Only Means of Mitigation	
Habitat Function of Wetland to be Replaced	Full and Functioning Buffer	Reduced and/or Degraded Buffer	Full and Functioning Buffer	Reduced and/or Degraded Buffer
Low (<20 points)	10:1	14:1	20:1	30:1
Moderate (20-30 points)	13:1	17:1	30:1	40:1
High (>30 points)	16:1	20:1	40:1	50:1

18.10.717 FEE-IN-LIEU MITIGATION

For Category IV wetlands of 1,000 square feet or less, mitigation may be accomplished by compensating for wetland loss through a fee-in-lieu based on a 1:1 ratio, where allowed by the Shoreline Regulations and the Corps of Engineers. Fee-in-lieu shall be based on the cost to replace the wetland at an offsite location, including land costs, wetland construction, and monitoring.

SECTION 18.10.800

DEFINITIONS

1. **Adjacent** – Immediately adjoining (in contact with the boundary of the influence area) or within a distance less than that needed to separate activities from critical areas to ensure protection of the functions and values of the critical areas. Adjacent shall mean any activity or development located:
 - a. On site immediately adjoining a critical area; or
 - b. A distance equal to or less than the required critical area buffer width and building setback.
2. **Alteration** – Any human-induced change in an existing condition of a critical area or its buffer. Alterations include, but are not limited to: grading, filling, dredging, channelizing, clearing (vegetation), applying pesticides, discharging waste, construction, compaction, excavation, modifying for storm water management, relocating, or other activities that change the existing landform, vegetation, hydrology, wildlife, or habitat value, of critical areas.
3. **Anadromous fish** – Fish that spawn in fresh water and mature in the marine environment.
4. **Applicant** – A person who files an application for a permit under this chapter and who is either the owner of the land on which that proposed activity would be located, a contract purchaser, or the authorized agent of such a person.
5. **Aquifer recharge area** – An area that, due to the presence of certain soils, geology, and surface water, acts to recharge ground water by percolation.
6. **Best Available Science** – Current scientific information used in the process to designate, protect, or restore critical areas, that is derived from a valid scientific process as defined by WAC 365-195-900 through WAC 365-195-925.
7. **Best Management Practices** – Conservation practices or systems of practice and management measures that:
 - a. Control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics, and sediment;
 - b. Minimize adverse impacts to surface water and ground water flow, circulation patterns, and the chemical, physical, and biological characteristics of wetlands;
 - c. Protect trees and vegetation designated to be retained during and following site construction; and
 - d. Provides standards for proper use of chemical herbicides within critical areas.
8. **Buffer** – The zone contiguous with a critical area that is required for the continued maintenance, function, and structural stability of the critical area.
9. **Building Setback Line (BSBL)** – A line beyond which the foundation of a structure shall not extend.
10. **City** – The City of White Salmon, or the city designee or authorized agent.

11. **Clearing** – The removal of vegetation by any means and includes cutting or grubbing vegetation.
12. **Critical Aquifer Recharge Area** – Areas designated by WAC 365-190-080(2) that are determined to have critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2).
13. **Critical Areas** – Any of the following areas or ecosystems: wetlands, critical aquifer recharge areas, streams, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas as defined by the Growth Management Act (RCW 36.70A.170).
14. **Erosion** – The process by which soil particles are mobilized and transported by natural agents such as wind, rain, frost action, or stream flow.
15. **Erosion Hazard Area** – Those areas that, because of natural characteristics, including vegetative cover, soil texture, slope gradient, and rainfall patterns, or human-induced changes to such characteristics, are vulnerable to erosion.
16. **FEMA** - Federal Emergency Management Agency. The agency that, oversees the administration of the National Flood Insurance Program (44 CFR).
17. **Fish and Wildlife Habitat Conservation Areas** – Areas necessary for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created as designated by WAC 365-190-080(5). These areas include:
 - a. Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association;
 - b. Habitats of local importance, including, but not limited to, areas designated as priority habitat by the Department of Fish and Wildlife;
 - c. Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish and wildlife habitat;
 - d. Waters of the state, including lakes, rivers, ponds, streams, inland waters, underground waters, salt waters and all other surface water and watercourses within the jurisdiction of the state of Washington;
 - e. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity;
 - f. State natural area preserves and natural resources conservation areas; and
 - g. Land essential for preserving connections between habitat blocks and open spaces.
18. **Flood Insurance Rate Map (FIRM)** – The official map on which the Federal Insurance Administration has delineated many areas of flood hazard, floodways, and the risk premium zones (CFR44 Part 59).
19. **Flood Insurance Study** – The official report provided by the Federal Insurance Administration that includes the flood profiles and the FIRM (CFR44 Part 59).
20. **Functions and Values** – The beneficial roles served by critical areas, including, but not limited to, water quality protection and enhancement, fish and wildlife habitat, food

chain support, flood storage, conveyance and attenuation, ground water recharge and discharge, erosion control, and recreation enjoyment and other values.

21. **Geologically Hazardous Areas** – Areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events (as designated by WAC 365-190-080(4)) may not be suited to development consistent with public health, safety or environmental standards. Types of geologically hazardous areas include erosion, landslide, seismic, volcanic hazards, and mine.
22. **Grading** – Any excavation, clearing, filling, leveling, or contouring of the ground surface by human or mechanical means.
23. **Hazard areas** – Areas designated as frequently flooded or geologically hazardous areas due to potential for erosion, landslide, seismic activity, mine collapse, or other geologically hazardous conditions, including steep slopes.
24. **Homeowners Association** – homeowners’ association created and managed pursuant to RCW Chapter 64.38 and this chapter. The landowner shall establish a Washington nonprofit corporation for the homeowners’ association. Articles and bylaws of the homeowners’ association shall be prepared in a form acceptable to the city attorney & shall be recorded with the county auditor and shall be binding on all heirs, successors and transferees of landowner, guaranteeing the following:
 - a. The continued use of such land consistent with the CAO approval;
 - b. Availability of funds required for such maintenance; and
 - c. Adequate insurance protection of community facilities;
25. **Impervious Surface Area**- means any non-vertical surface artificially covered or hardened so as to prevent or impede the percolation of water into the soil mantle including, but not limited to, roof tops, swimming pools, paved or graveled roads and walkways or parking areas and excluding landscaping and surface water retention/detention facilities.
26. **Lake** – An area permanently inundated by water in excess of two meters deep and greater than twenty (20) acres in size measured at the ordinary high water mark.
27. **Landslide** – Episodic down slope movement of a mass of soil or rock that includes, but is not limited to, rock falls, slumps, mudflows, and earth flows.
28. **Landslide Hazard Areas** – Areas that are potentially subject to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors.
29. **Minor Utility Project** - The placement of a utility pole, street sign, anchor, vault, or other small component of a utility facility, where the disturbance of an area is less than seventy-five (75) square feet.
30. **Mitigation** - The process of minimizing or compensating for adverse environmental impact(s) of a proposal on a critical area. The type(s) of mitigation required shall be considered and implemented, where feasible, in the following sequential order of preference:
 - a. Avoiding the impact altogether by not taking a certain action or parts of an action;
 - b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;

- c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
 - d. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
 - e. Compensating for the impact by replacing or providing substitute resources or environments; or
 - f. Monitoring the impact and taking appropriate measures to achieve the identified goal.
31. **Monitoring** – The collection of data by various methods for the purpose of understanding natural systems and features, evaluating the impact of development proposals on such systems, and/or assessing the performance of mitigation measures imposed as conditions of development.
 32. **Native Vegetation** – Plant species or communities indigenous to the region, including extirpated species.
 33. **Native Growth Protection Easement (NGPE)** – An easement granted to the City of White Salmon for the protection of native vegetation within a critical area or its associated buffer.
 34. **Practical Alternative** – An alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, and having less impact to critical areas.
 35. **Priority Habitat** – Habitat types or elements with unique or significant value to one or more species as classified by the State Department of Fish and Wildlife.
 36. **Qualified Professional** – A person with experience and training in the pertinent scientific discipline, and who is a qualified expert with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905(4). A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental sciences, fisheries, geomorphology or related field, and two years of related work experience.
 - a. A qualified professional for habitats or wetlands must have a degree in biology or a related environmental science and professional experience related to the subject.
 - b. A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the state of Washington.
 - c. A qualified professional for critical aquifer recharge areas must be a hydrologist, geologist, engineer, or other scientist with experience in preparing hydrological assessments.
 37. **Reasonable Use** – A legal concept articulated by federal and state courts in regulatory taking cases.
 38. **Riparian Habitat** – Areas adjacent to aquatic systems with flowing water (e.g. rivers, perennial or intermittent streams, seeps, springs) that contain elements of both aquatic and terrestrial ecosystems that mutually influence each other.

39. **Salmonid** – A member of the fish family Salmonidae. Including but not limited to chinook, coho, chum, sockeye, and pink salmon; cutthroat, brook, brown, rainbow, and steelhead trout; kokanee; and native char (bull trout and Dolly Varden).
40. **Seismic Hazard Areas** – Area that are subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, or soil liquefaction.
41. **Species:**
- a. **Threatened and Endangered** – Those native species that are listed in rule by the State Department of Fish and Wildlife pursuant to RCW 77.12.070 as threatened (WAC 232-12-011) or endangered (WAC 232-12-014), or that are listed as threatened and endangered under the federal Endangered Species Act (16 U.S.C. 1533).
 - b. **Sensitive** – Vulnerable or declining native species that are likely threatened or endangered in a significant portion of their ranges within the state without cooperative management or the removal of the threats.
 - c. **Local Importance** – species and habitats of local importance may be designated and protected subject to the following process for the designation, nomination and protection of species of local importance.
 - (1) The designation, nomination and protection strategies shall be based on best available science.
 - (a) Designation criteria.
 - (b) Designation of species of local importance must be based on both the following:
 - (i) protection of the native species and its primary association area through existing policies, laws, regulations, or non-regulatory tools is not adequate to prevent degradation of the species in the city; and
 - (ii) the primary association area nominated to protect a particular species is high quality native habitat or has a high potential to be high quality habitat, or provides landscape connectivity which contributes to the designated species" preservation.
 - (2) Designation of species of local importance must also be based on one or more of the following circumstances:
 - (a) local populations of a native species are in danger of extirpation based on existing trends;
 - (b) local populations of a native species are likely to become threatened or endangered under state or federal law;
 - (c) local populations of a native species are vulnerable or declining;
 - (d) the native species has recreational, commercial, or tribal significance;or
 - (e) long-term persistence of a native species is dependent on the protection, maintenance, and/or restoration of the nominated primary association area.
 - (3) Petition Contents. The petition to nominate a species of local importance shall contain all the following:

- (a) A map showing the nominated primary association area location(s);
- (b) An environmental checklist in conformance with SCC 30.61.100;
- (c) A written statement that
 - (i) identifies which designation criteria form the basis of the nomination;
 - (ii) includes supporting evidence that designation criteria are met;
 - and
 - (iii) indicates what specific habitat feature(s) or plant communities are to be protected (e.g., nest sites, breeding areas, and nurseries);
- (d) Recommended management strategies for the species, supported by the best available science; and
- (e) An economic analysis identifying the cost of implementing a mitigation or protection plan and the financial impact of the requested designation on affected properties or local governments.

(4) Approval Process.

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

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

(i) any person may nominate species for designation by submitting a petition meeting the requirements of this subsection and subject to payment of fees as may be established by the City;

(ii) the city shall complete a SEPA threshold determination and provide notice of the petition as required for SEPA threshold determinations associated with a project permit;

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

(iv) the city shall submit to the executive a staff report containing the staff recommendation, all relevant SEPA documents, and a proposed motion which provides for disposition of the petition;

(v) upon delivery of the staff report to the council, the proposed motion will be duly considered.

(c) Cost of environmental studies. Any person submitting a petition to nominate a species of local importance shall pay the cost of environmental review and studies necessary under SEPA. The person may, at his or her own expense

and to the extent determined appropriate by the responsible official, provide additional studies or other information.

(5) Establishment of specific rules for protection. Within 120 days of an action by the council, the city shall develop an administrative rule pursuant to Title 19 addressing protection of the species of local importance in compliance with this section.

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

42. **Steep Slopes** – Those slopes forty percent (40%) or steeper within a vertical elevation change of at least ten (10) feet. A slope is defined by establishing its toe and top and is measured by averaging the inclination over at least ten (10) feet of vertical relief.
43. **Stream** – Any portion of a watercourse, either perennial or intermittent, where the surface water flow is sufficient to produce a defined channel or bed. Streams also include natural watercourses modified by humans. Streams do not include irrigation ditches, canals, stormwater run-off facilities, or other entirely artificial watercourses.
44. **Unavoidable** – Adverse impacts that remain after all appropriate and practicable avoidance and minimization have been achieved.
45. **Utility** – A service and/or facility that produces, transmits, carries, stores, processes, or disposes of electrical power, gas, potable water, stormwater, communications (including, but not limited to, telephone and cable), sewage, oil and the like.
46. **Vegetation** – Plant life growing below, at, and above the soil surface.
47. **Water Typing System** – The system used to classify freshwater surface water systems. Current regulations establish “interim” water typing (1-5) until fish habitat water type maps are available for permanent water typing (S, F, Np, Ns) (WAC 222-16-031).
48. **Wetland** – As defined by RCW 36.70 or as here after amended, those areas that are inundated or saturated by ground or surface 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.
 - a. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway.
 - b. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate conversion of wetlands.
49. **Wetlands Rating System** – Wetlands shall be rated according to the *Washington State Wetland Rating System for Western Washington*, Department of Ecology, Publication #93-74, or as revised.

EXHIBIT A

CRITICAL AREAS: MAPS AVAILABLE TO ASSIST WITH CRITICAL AREA IDENTIFICATION

<u>Source</u>	<u>MAP NAME/TYPE</u>
Department of Ecology	NATIONAL WETLANDS INVENTORY NWI MAP – <i>available on line</i>
Federal Emergency Management Agency	FLOOD INSURANCE RATE MAPS – <i>available on line</i>
Department of Natural Resources	GENERAL GEOHAZARD MAPPING – STEEP SLOPES STREAM CLASSIFICATION – INTERACTIVE MAPPING <i>available on line</i> RARE PLANT MAP – BY GRID BLOCK
Washington Department of Fish and Wildlife	PRIORITY HABITAT AND SPECIES MAP – <i>available on line</i>
City of White Salmon	CRITICAL AQUIFER RECHARGE AREAS

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

CHAPTER 18.20
ENVIRONMENTAL PROTECTION (SEPA REVIEW)

SECTIONS:

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18.20.010 PURPOSE.

The purpose of the ordinance codified in this chapter is to implement the Revised Statewide SEPA Rules (WAC 197-11) and certain elements of Chapter 173-800 WAC, as established by the Council on Environmental Policy and the Washington Department of Ecology, as those guidelines apply to the actions of the City of White Salmon.

18.20.020 AUTHORITY.

The City of White Salmon adopts the ordinance codified in this chapter pursuant to the State Environmental Policy Act, RCW 43.21C.120 and the SEPA Rules, WAC 197-11-904.

18.20.030 ADOPTION BY REFERENCE.

The City of White Salmon adopts Chapter 197-11 WAC of the Washington Administrative Code (SEPA Rules 197-11-010 through 197-11-990 inclusive).

18.20.040 ADDITIONAL DEFINITIONS.

In addition to those definitions contained within WAC 197-11-700 through 799, when used in this chapter, the following terms shall have the following meanings, unless the context indicates otherwise:

- A. "*Department*" means any division, subdivision or organizational unit of the City established by ordinance, rule or order.
- B. "*SEPA Rules*" means Chapter 97-11 WAC adopted by the Department of Ecology.
- C. "*Ordinance*" means the ordinance, resolution, or other procedure used by the City to adopt regulatory requirements.
- D. "*Early notice*" means the City's response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant's proposal (mitigated DNS procedures).

18.20.050 NON-EXEMPT PROPOSALS--DNS OR EIS.

- A. For nonexempt proposals, the determination of non-significance (DNS) of Draft EIS for the proposal shall accompany the City's staff recommendation to any appropriate advisory body, such as the Planning Commission.
- B. If the City's only action on a proposal is a building permit or other license, the applicant may request in writing that the City conduct environmental review prior to submission of the detailed plans and specifications.

18.20.060 USE OF EXEMPTIONS.

- A. When the City receives an application for a license or, in cases where the City is initiating a proposal, the City shall determine whether the license and/or the proposal is exempt. If a proposal is exempt, none of the procedural requirements of this chapter apply to the proposal and the City shall not require completion of an environmental checklist. The exemptions are those contained in the SEPA Rules, Section WAC 197-11-305 and in Part Nine, WAC 197-11-800 through 197-11-880.
- B. If a proposal includes both exempt and non-exempt actions, the City may authorize exempt actions prior to compliance with the procedural requirements of this chapter, except that:
 - 1. The City shall not give authorization for:
 - a. Any nonexempt action;
 - b. Any action that would have an adverse environmental impact; or
 - c. Any action that would limit the choice of alternatives.

18.20.070 LEAD AGENCY.

- A. The Planning Commission and/or City Staff shall be the designated lead agency for the City and shall be responsible for carrying out the duties and functions of the City when acting under and pursuant to the State Environmental Policy Act and the SEPA Rules.
- B. In the event that an EIS is to be prepared by a private applicant or a consultant retained by the private applicant, the lead agency shall ensure that the EIS is prepared in a responsible manner and with appropriate methodology. The lead agency shall direct the areas of research and examination to be undertaken, as well as the organization of the resulting document.

- C. In the event that the City is preparing an EIS, the Board may require a private applicant to provide data and information which is not in the possession of the City relevant to any or all areas to be covered by the EIS.

18.20.080 ENVIRONMENTAL CHECKLIST.

- A. A completed environmental checklist (or a copy), in the form provided in WAC 197-11-960, shall be filed at the same time as an application for a permit, license, certificate, or other approval not specifically exempted in this chapter; except, a check list is not needed if the City and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency.
- B. For private proposals, the City will require the applicant to complete the environmental checklist, providing assistance as necessary. For City proposals, the department initiating the proposal shall complete the environmental checklist for that proposal.
- C. The City may require that it, and not the private applicant, will complete all or part of the environmental checklist, for a private proposal, if either of the following occurs:
 - 1. The City has technical information on the question or questions that is unavailable to the private applicant; or
 - 2. The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration.

18.20.090 MITIGATED DETERMINATION OF NONSIGNIFICANCE.

As provided in this section and in WAC 197-11-350, the lead agency may issue a determination of non-significance (DNS) based on conditions attached to the proposal by the lead agency or on changes to, or clarifications of, the proposal made by the applicant.

- A. An applicant may request in writing early notice of whether a determination of significance (DS) is likely under WAC 197-11-350. The request must:
 - 1. Follow submission of a permit application and environmental checklist for a non-exempt proposal for which the department is lead agency; and
 - 2. Precede the City's actual threshold determination for the proposal.
- B. The lead agency should respond to the request for early notice within fifteen (15) days. The response shall:
 - 1. Be written;
 - 2. State whether the City currently considers issuance of a DS likely and, if so, indicate the general or
 - 3. specific area(s) of concern that are leading the City to consider a DS; and
 - 4. State that the applicant may change or clarify the proposal to mitigate the indicated impacts, revising the environmental checklist and/or permit application as necessary to reflect the changes or clarifications.
- C. As much as possible, the City should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.
- D. When an applicant submits a changed or clarified proposal, along with a revised environmental checklist, the City shall base its threshold determination on the changed

or clarified proposal and should make the determination within fifteen (15) days of receiving the changed or clarified proposal:

1. If the City indicated specific mitigation measures in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, the City shall issue and circulate a determination of non-significance under WAC 197-11-340(2).
 2. If the City indicated areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the City shall make the threshold determination, issuing a DNS or DS as appropriate.
 3. The applicant's proposed mitigation measures (clarifications, changes, or conditions) must be in writing and must be specific. For example, proposal to "control noise" or "prevent storm water runoff" are inadequate, whereas proposals to "muffle machinery to X decibel" or "construct 200 feet storm water retention pond at Y location" are adequate.
 4. Mitigation measures which justify issuance of a mitigated DNS may be incorporated in the DNS by reference to agency staff reports, studies or other documents.
- E. A mitigated DNS is issued under WAC 197-11-340(2), requiring a fifteen (15) day comment period and public notice.
- F. Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit, or enforced in any manner specifically prescribed by the City.
- G. If the City's tentative decision on a permit or approval does not include mitigation measures that were incorporated in a mitigated DNS for the proposal, the City should evaluate the threshold determination to assure consistency with WAC 197-11-340(3)(a) (withdrawal of DNS).
- H. The City's written response under (B) of this subsection shall not be construed as a determination of significance. In addition, preliminary discussion of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind the City to consider the clarifications or changes in its threshold determination.

18.20.100 PREPARATION OF EIS--ADDITIONAL CONSIDERATIONS.

- A. Preparation of draft and final EIS's and supplemental EIS's is the responsibility of the City under the direction of the lead agency. Before the City issues an EIS, the lead agency shall be satisfied that it complies with this chapter and Chapter 197-11 WAC.
- B. The draft and final EIS or SEIS shall be prepared by City staff, the applicant, or by a consultant selected by the City or the applicant. If the lead agency requires an EIS for a proposal and determines that someone other than the City will prepare the EIS, the lead agency shall notify the applicant immediately after completion of the threshold determination. The lead agency shall also notify the applicant of the City's procedure for EIS preparation, including approval of the draft and final EIS prior to distribution.
- C. The City may require an applicant to provide information the City does not possess, including specific investigations. However, the applicant is not required to supply information that is not required under this chapter or that is being requested from

another agency. (This does not apply to information the City may request under another chapter or statute).

18.20.110 ADDITIONAL ELEMENTS--EIS.

The following additional elements may be considered a part of the environment for the purpose of EIS content, but shall not add to the criteria for threshold determinations or perform any other function or purpose under this chapter.

- A. Economy, including but not limited to employment and tax base;
- B. Cultural factors;
- C. Social policy analysis.

18.20.120 PUBLIC NOTICE.

- A. When the SEPA Rules require notice to be given, such as when the City issues a determination of non-significance (DNS) or determination of significance (DS), the lead agency shall use reasonable methods to inform the public and other agencies that environmental documents are being prepared or are available and that public hearings, if any, will be held. Examples of reasonable methods to inform the public include:
 - 1. Posting the property, for site-specific proposals;
 - 2. Publishing notice in a newspaper of general circulation in the county or city where the proposal is located;
 - 3. Posting notice at the city hall, city kiosk, post office and customary grocery store;
 - 4. Notifying individuals or groups with known interest in the proposal being considered;
 - 5. Publishing notice in the city newsletter.
- B. At a minimum, notice shall be given by methods A.1 and A.2.
- C. The City may require applicants to complete the public notice requirements for the applicant's proposal at their expense.

18.20.130 SUBSTANTIVE AUTHORITY.

The policies and goals set forth in this chapter are supplementary to those in the existing authorization of the City of White Salmon.

18.20.140 CONDITIONS TO PERMIT OR APPROVAL.

The City may attach conditions to a permit or approval for a proposal so long as:

- A. Such conditions are necessary to mitigate specific probable significant adverse environmental impacts identified in environmental documents prepared pursuant to this chapter;
- B. Such conditions are in writing;
- C. The mitigation measures included in such conditions are reasonable and capable of being accomplished;
- D. The City has considered whether local, state, or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts;

- E. Such conditions are based on one or more policies in sub-section 18.20.160 below and cited in the license or other decision document.

18.20.150 DENIAL OF PERMIT OR APPROVAL.

The City may deny a permit or approval for a proposal on basis of SEPA so long as:

- A. A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a final EIS or final supplemental EIS prepared pursuant to this chapter;
- B. A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact;
- C. The denial is based on one or more policies identified in Section 18.20.160 and identified in writing in the decision document.

18.20.160 POLICIES FOR EXERCISE OF AUTHORITY.

The City designates and adopts by reference the following policies as the basis for the City's exercise of authority pursuant to this section:

- A. The City shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs and resources to the end that the City and its citizens may:
 - 1. Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
 - 2. Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;
 - a. Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
 - b. Preserve important historic, cultural, and natural aspects of our national heritage;
 - c. Maintain, wherever possible, an environment which supports diversity and variety of individual choice;
 - d. Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and
 - e. Enhance the quality of renewal resources and approach the maximum attainable recycling of depletable resources.
- B. The City recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.
- C. The City adopts by reference the policies in the following City ordinances and plans:
 - 1. White Salmon Comprehensive Plan
 - 2. Interim Zoning Ordinance.

18.20.170 APPEAL.

Except for permits and variances issued pursuant to Chapter 90.58 Revised Code of Washington, when any proposal or action not requiring a decision of the City Council is conditioned or denied on the basis of SEPA by non-elected officials, the decision shall be appealable to the City Council. Such appeal may be perfected by the proponent or any aggrieved party by giving notice to the responsible official within ten (10) days of the decision being appealed. Review by the City Council shall be on an original basis.

18.20.180 ENVIRONMENTALLY SENSITIVE AREAS.

- A. The City shall designate environmentally sensitive areas under the standards of WAC 197-11-908 and shall file maps designating such areas, together with the exemptions from the list in WAC 197-11-908 that are applicable in such areas, with the Mayor and Department of Ecology, headquarters office, Olympia, Washington. The environmentally sensitive area designations shall have full force and effect of law as of the date of filing.
- B. The City shall treat proposals located wholly or partially within an environmentally sensitive area no differently than other proposals under this chapter, making a threshold determination for all such proposals. The City shall not automatically require an EIS for a proposal merely because it is proposed for location in an environmentally sensitive area.
- C. Certain exemptions do not apply on lands covered by water, and this remains true regardless of whether or not lands covered by water are mapped.

18.20.190 SEPA PUBLIC INFORMATION.

The City shall retain all documents required by the SEPA Rules (Chapter 197-11 WAC) and make them available in accordance with Chapter 42.17 RCW.

18.20.200 FEES.

A fee as set forth in Chapter 3.36 of this code is required for conducting the environmental review of projects pursuant to the State Environmental Protection Act (SEPA).

18.20.210 NOTICE OF ACTION--STATUTE OF LIMITATIONS.

- A. The City applicant for, or proponent of any action may publish a notice of action pursuant to RCW 43.21C.080 for any action.
- B. The form of the notice shall be substantially in the form provided in WAC 197-11-990. The notice shall be published by the city clerk or applicant or proponent pursuant to RCW 43.21C.080.

CHAPTER 18.30
SHORELINES MASTER PLAN

SECTIONS:

18.30.010 KLUICKITAT COUNTY SHORELINES MASTER PLAN ADOPTED

18.30.010 KLUICKITAT COUNTY SHORELINES MASTER PLAN ADOPTED

Adoption of the Klickitat County Shorelines Master Plan Updated to the Year 1984, is hereby adopted by the city on November 26,2012. County updates to the Shorelines Master Plan subsequent to this date do not address land within any City Limits within Klickitat County.
{ ORD #2012-11-906 }

SECTION 2 - SEVERABILITY. If any section, sentence, or phrase of this Chapter is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence or phrase of this Chapter.

SECTION 3 - EFFECTIVE DATE. This ordinance shall become effective following passage and publication as provided by law.

PASSED in regular session this 26th day of November, 2012.

David Poucher, Mayor

Leana Johnson, Clerk/Treasurer

APPROVED AS TO FORM:

Kenneth B. Woodrich, City Attorney