Title 21

ENVIRONMENTAL PROTECTION

21.10 Resource Lands and Critical Areas Protection

Chapter 21.10 RESOURCE LANDS AND CRITICAL AREAS PROTECTION

Sections:

* Prior ordinance history: Ords. 815, 926, 939, 942

21.10.010 Statutory authorization, purpose and objectives.

A. Statutory authorization.

The Legislature of the State of Washington has, in RCW 36.70A060, mandated local governments that plan under RCW 36.70A.040 to adopt development regulations to ensure the conservation of agricultural, forest and mineral resource lands and to adopt development regulations precluding land uses or development that are incompatible with critical areas designated under RCW 36.70A.170. Chapter 21.10 is known as the North Bonneville Critical Areas Ordinance (NBCAO).

B. Statement of purpose and ~~objectives~~Intent.

It is the purpose of this chapter to promote the public health, safety and general welfare in specific areas by provisions designed to:

1. Protect human life and health;
2. further the public's interest in the conservation and wise use of our lands;
3. assure the long term conservation of resource lands;
4. preclude land uses and developments which are incompatible with identified critical areas;
5. protect unique, fragile and valuable elements of the environment, including fish and wildlife and their habitats, from incompatible development and prevent adverse environmental impacts to habitat areas;

6. protect aquifer recharge areas, water sources and water quality for the benefit of human uses, re-creation and wildlife;
7. classify and designate critical areas and resource lands;
8. develop appropriate regulatory and non-regulatory actions in response; and otherwise comply with requirements imposed by the State of Washington's Growth Management Act (GMA); and
9. encourage economic development consistent with adopted regulations; protect private property rights of landowners from arbitrary and discriminatory actions; and encourage the retention of open space and development of recreational opportunities.

The purpose of this chapter is to implement the open space policies of the North Bonneville Comprehensive Plan and the elements of the Washington State Growth Management Act. This chapter defines, designates, and classifies critical areas as wetlands, critical aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas, per WAC 365-196-830.

Critical areas are valuable and potentially fragile natural resources 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 functions and values of critical areas. 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 North Bonneville 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 and edges which enhance property values and quality of life in developed neighborhoods; (3) educational opportunities for the citizens of North Bonneville and (4) accessible areas for residents to stroll, hike, and enjoy North Bonneville'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 priority, threatened, or endangered plant and animal species.

The intent of this ordinance is for the City of North Bonneville to achieve no net loss of wetlands, floodplains, fish and wildlife habitat areas, and riparian zones and to avoid significant adverse impacts to geologically hazardous areas and aquifer recharge/wellhead protection areas.

The city's preferred strategy to achieve no net loss is to avoid adverse impacts to critical areas and buffers. However, the city recognizes that there are situations and circumstances where avoidance is not practicable whereupon the intent of this

chapter is to minimize and mitigate the environmental impacts of development within and adjacent to critical areas and buffers through the application of mitigation sequencing described in WAC-197-11-768.

This chapter is based upon two equally important principles: the protection of individual property rights, and the protection of critical areas consistent with state law throughout the urban area. This chapter attempts to promote a balance between private use of critical areas and the maintenance of the natural appearance and functional values inherent in critical areas.

Development limitations on critical areas reduce the need to require additional studies to ensure compliance with the State Environmental Policy Act (SEPA) process as well as other state and federal environmental regulations.

21.10.020 Definitions.

""Administrator" means the City's designated Planning Official.

"Aesthetics" means a characteristic of development or the environment, relating to physical beauty.

"Agricultural lands"--lands that are not already characterized by urban grow and are of long term significance for the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees are not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, or livestock.

"Alter" means to adjust, modify, or rework a structure or parcel of land.

"Alteration" means any human-induced change in an existing condition of a critical area or its buffer. Alterations include, but are not limited to, grading, filling, channelizing, dredging, clearing of vegetation, construction, compaction, excavation, or any other activity that changes the character of the critical area or its buffer.

"Anadromous"—means fish that migrate up rivers and streams from the ocean to breed in fresh water.

"Aquifer"—means a groundwater-bearing geologic formation or formations that contain enough saturated permeable material to yield significant quantities of water to wells or springs (Chapter 173-100 WAC).

"Area of shallow flooding" means areas designated AO or AH Zone on the flood insurance rate map (FIRM). The base flood depths range from one to three feet, a clearly defined channel does not exist, the path of flooding is unpredictable and indeterminate, and velocity flow may be evident. AO is characterized as sheet flow and AH indicated ponding.

"Area of special flood hazard" means the land in the flood plain subject to a one percent chance or greater of flooding in any given year, as shown on flood insurance rate maps (FIRM), or except as otherwise determined by the Federal Emergency Management Agency (FEMA).

"Base Flood"—means the flood having a 1% chance of being equaled or exceeded in

any given year. Also referred to as the "100-year flood."
"Base Flood Elevation"—means the elevation that the base flood is expected to reach. Also referred to as the "100-year flood elevation."
"Best available information" means data other than official flood insurance rate map data from federal, state, or other sources, provided this data has either been generated using technically defensible methods or is based on reasonable historical analysis and experience.

"Best available science" means current scientific information used in the process of designating, protecting, or restoring critical areas; that is, scientific information derived from a valid scientific process as defined by WAC 365-195-900 through 365-195-925.

"Best management practices"--means conservation practices or systems of practices and management measures that:

a. control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxics, and sediment; and
b. Minimize, or where possible, avoid adverse impacts to space water and groundwater flow, to circulation patterns, and to the chemical, physical, and biological characteristics of wetlands and water bodies.

2. "Bog"—is a type of wetland where organic (peat or muck) soil layers comprise at least 16 of the first 32 inches of the soil profile; or contain greater than 70% mosses. Many bogs have soils classified as peat or muck, are nutrient poor, have a low pH (acidic), and are fed largely by rainfall rather than streams or groundwater.
3. "Buffer"—is an area that is contiguous to and protects a critical area and which is required for the continued maintenance, functioning, and/or structural stability of a critical area.
~~3.~~4. "Channel migration zone" means the area along a river or stream within which the channel can reasonably be expected to migrate over time as a result of normally occurring processes. It encompasses an area of current and historic lateral stream channel movement that is subject to erosion, bank destabilization, rapid stream incision, and/or channel shifting, as well as adjacent areas that are susceptible to channel erosion.

"City"—means the City of North Bonneville, Washington.
"Classification"—means defining categories to which natural resource lands and critical areas are assigned.
"The Clean Water Act (CWA)" means the federal law that establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters. Under the CWA, the federal Environmental Protection Agency has implemented pollution control programs such as setting wastewater standards for industry. The EPA has also developed national water quality criteria recommendations for pollutants in surface waters.

"Clearing" means the act of removing existing vegetations, structures or other items from a site prior to undertaking land improvements.

"Coastal high hazard area" means the area subject to high velocity water, including but not limited to, storm surge or tsunamis. This area is designated on a flood insurance rate map (FIRM) as Zone V1—30, VE or V.

"Compensatory mitigation" means the restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances preservation of wetlands for the purposes of offsetting unavoidable adverse impacts that remain after all appropriate and practicable avoidance and minimization has been achieved.

"Conservation covenant" means a recorded instrument entered in pursuant to a condition of approving a triggering application.

"Start of construction" means the date the building permit was issued, provided the actual start of construction, placement of a manufactured home on a foundation, or other permanent construction beyond the stage of excavation, was within one hundred eighty days of the permit date. The actual start means either the first placement of permanent construction of structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation.

"Permanent construction" does not include:

a. Land preparation, such as clearing, grading and filling;

b. Installation of streets and/or walkways;

c. Excavation for a basement, footings, piers, or foundation, or the erection of temporary forms; and

d. Construction of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

"Council" means the council of the City of North Bonneville.

"Cowardin Classification" means the first commonly used classification system for wetlands. It was first developed in 1979 by the U.S. Fish and Wildlife Service and updated in 2013 (Federal Geographic Data Committee, 2013). The Cowardin system classifies wetlands based on water flow, substrate types, vegetation types, and dominant plant species.

~~4.1. "Critical areas"—means one, or a combination, of wetlands, critical aquifer recharge areas, frequently flooded areas, geologically hazardous areas, and fish and wildlife habitat conservation areas.~~

"Critical aquifer recharge area"—those areas that have been identified as having a critical recharging effect on aquifer use for potable water in community water systems.

"Critical areas"—means one, or a combination, of wetlands, critical aquifer recharge

areas, frequently flooded areas, geologically hazardous areas, and fish and wildlife habitat conservation areas.

"Critical facility" means a facility for which even a slight chance of flooding or geological hazard would be too great. Critical facilities include but are not limited to schools, hospitals, police, fire, and emergency response installations, nursing homes, and installations which produce, use or store hazardous materials or hazardous waste.

"Critical habitat" means a specific geographic area that contains features essential to the conservation of an endangered or threatened species and may require special management and protection. Critical habitat may also include areas that are not currently occupied by the species but are needed for its recovery. (USFWS)

"Cumulative impacts" means the combined, incremental effects of human activity on critical area functions and values. Cumulative impacts result when the effects of an action are added to or interact with the effects of other actions at a particular place over time.

"Dangerous wastes" means those wastes designated in WAC 173-303-070 through 173-303-120 as dangerous or extremely hazardous or mixed waste. As used in Chapter 173-303 WAC, the words "dangerous waste" will refer to the full universe of wastes regulated by that chapter, and will be used interchangeably with "hazardous waste."

"Data maps"—means that series of maps maintained by the city for the purpose of graphically depicting the boundaries of resource lands, and critical areas.

"Designation"—means formal adoption of a policy statement, and may include further legislative action. Designation establishes, for planning purposes: the classification scheme; the general distribution, location and extent of the uses of land consistent with the underlying zone and the general distribution, location and extent of critical areas.

"Design storm" means a prescribed hyetograph and total precipitation amount (for a specific duration recurrence frequency) used to estimate runoff for a hypothetical storm of interest or concern for the purposes of analyzing existing drainage, designing new drainage facilities, or assessing other impacts of a proposed project on the flow of surface water. (A hyetograph is a graph of percentages of total precipitation for a series of time steps representing the total time during which the precipitation occurs).

"Detention facility" means an above- or below-ground facility, such as a pond or tank, that temporarily stores storm water runoff and subsequently releases it at a slower rate than it is collected by the drainage facility system. There is little or no infiltration of stored storm water.

"Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

"Development rights" means a legal claim to convert a tract of land to a specific purpose by construction, installation, or alteration of a building or other structure.

"Development application"—means an application tendered under the provisions of the city land use, zoning or site development ordinances, building permit applications, surface mining permits, hydraulic approvals, shoreline permits, subdivisions or short plats, road construction or excavation and grading permits.

"Domestic animal" means an animal normally kept incidental to a single-family dwelling. Included are dogs and cats; excluded are wild or exotic animals, horses and cows, chickens, goats, or other similar animals.

"Drainage" means the removal of surface water or groundwater from land by drains, grading, or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during and after development and includes the means necessary for water supply preservation, prevention, or alleviation of flooding.

"Drainage basin elevation" means a geographic and hydrologic subunit of a watershed.

"Elevation" means:

(1) The vertical distance above or below a fixed reference level or,

(2) A flat scale drawing of the front, rear, or side of a building or structure.

"Economically viable use" – means any use of property that enables the property owner to derive some economic benefit from ownership. This does not mean the highest and best use, but it means some economic use, however minimal, to avoid unconstitutional taking.

"Emergent wetland" means a wetland with at least thirty percent of the surface area covered by erect, rooted, herbaceous vegetation as the uppermost vegetative strata.

"Endangered and Threatened Species, Federally Designated"—are fish, wildlife, and plant species identified by the U.S. Fish and Wildlife Service (USFWS) or National Marine Fisheries Service (NMFS) as threatened or endangered under the Endangered Species Act, 16 USC Section 1531, *et seq*.

"Endangered, Threatened and Sensitive Species, State Designated"—are fish, wildlife, and plant species native to the State of Washington and identified by the Washington Department of Fish and Wildlife (WDFW) as sensitive, threatened, or endangered species.

"Energy-efficient structure" means a structure designed and built to comply with the annual thermal performance standards established by the Northwest Power Planning Council as the Model Conservation Standards.

"Enhancement"—means actions performed to improve the condition of an existing degraded critical area or buffer so that the functions provided are of a higher quality. See also Wetland Enhancement.

"Erosion" means the detachment and movement of soil or rock fragments by water, wind, and/or gravity.

"Erosion control"—is the design and installation of measures to control erosion and sedimentation during and after construction and to permanently stabilize soil exposed during and after construction using a combination of structural control measures,

cover measure, and construction practices.

"Erosion hazard areas" means those areas identified by the United States Department of Agriculture Soil Conservation Service as having severe or moderate rill and inter-rill erosion hazard and areas subject to sever of moderate stream bank erosion.

"Exotic" means any species of plants or animals that are not native to the watershed.

"Fill" means earth or any other approved substance or material.

"Fish and wildlife habitat conservation areas"—areas that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors; and areas with high relative population density or species richness. "Fish and wildlife conservation areas" do not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of, and are maintained by, a port district or an irrigation district or company. The definition of fish and wildlife conservation areas is pursuant to WAC 365-190-0380(65) and any future changes to the WAC, and includes all lands within the following categories:

1. Areas with which endangered, threatened, and sensitive species have a primary association including areas with which "priority species" as defined by the Washington Department of Wildlife have a primary association.
2. "Priority habitats" as identified by the Washington Department of Fish and Wildlife. Priority habitats are areas with one or more of the following attributes pertaining to state species listed as endangered or threatened: comparatively high wildlife density, high wildlife species richness, significant wildlife species richness, significant wildlife breeding habitat, significant wildlife seasonal ranges, significant movement corridors for wildlife, limited availability, and/or high vulnerability.
3. Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat. These do not include ponds deliberately designed and created from dry sites such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction pond of less than three years' duration, and landscape amenities. However, naturally occurring ponds shall include those artificial ponds intentionally created with the approval of a regulatory authority from dry areas to mitigate adverse impact upon other ponds.
4. Lakes, ponds, streams, and rivers planted with game fish as defined by RCW 77.08.020, including fish planted under auspices of federal, state local, or tribal programs, or which support priority fish species as identified by the Washington Department of Fish and Wildlife.

5. Habitats and species of local importance, as designated in this chapter.

6. Waters of the state as defined in Title 222 WAC.

7. State natural area preserves and natural resource conservation areas.

~~5. includes habitat for endangered, threatened and sensitive species; priority habitats and species areas; riparian areas; habitats of local importance, and water bodies.~~

"Fish habitat"—is habitat which is used by any fish at any life stage at any time of the year, including potential habitat likely to be used by fish which could be recovered by restoration or management and includes off-channel habitat. (WAC 222-16-030)

"Flood" or "flooding"—means a general and temporary condition of partial or complete inundation of normally dry land area from the overflow of inland or tidal waters and/or the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Insurance Rate Map (FIRM)"—is the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Flood insurance study" means the official report provided by the federal insurance administration that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

"Flood protection elevation" means one foot above the base flood elevation.

"Flooded frequently" means a flooding class in which flooding is likely to occur often under normal weather conditions (more than fifty percent chance of flooding in any year of more than fifty times in one hundred years).

"Floodway" means the area that has been established in effective federal emergency management agency flood insurance rate maps or floodway maps. The floodway does not include lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

"Designated floodway" means the regulatory floodway that has been delineated on the FIRM of the flood boundary-floodway map (FBFM) or a community's flood insurance study and is included in the community's flood damage prevention ordinance.

"Floodway fringe" means the land between the boundary of the floodway and the limits of the 100-year floodplain. In those special flood hazard areas where the floodway boundary is not delineated upon flood insurance study maps, the floodway fringe area shall be determined by the use of other base flood data.

"Floodplain", synonymous with "100-year floodplain", means that a land area is susceptible to inundation with a one percent chance of being equaled or exceeded in

any given year. The limit of this area shall be based upon flood ordinance regulation maps.

"Floor (lowest)" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this title.

"Forest land"—as defined in the Washington State Forest Practice Act means all land which is capable of supporting a merchantable stand of timber and is not actively used for a use which is incompatible with timber growing.

"Frequently flooded areas"— means floodplains and other areas subject to a one (1.0) percent (i.e., a "100-year flood") or greater chance of flooding in any given year.

"Functions" or "functions and values of fish and wildlife habitat conservation areas"—are the beneficial roles served by Fish and Wildlife Habitat Conservation Areas. Fish and Wildlife Habitat Conservation Areas provide habitat for breeding, rearing, foraging, protection and escape, migration, and over-wintering. Fish and Wildlife Habitat Conservation Areas affect the quality of habitat by providing complexity of physical structure, supporting biological diversity, regulating stormwater runoff and infiltration, removing pollutants from water, and maintaining appropriate temperatures.

"Functions" or "functions and values of wetlands"—are the beneficial roles served by wetlands. Wetlands improve water quality, maintain watershed hydrology (for example, by providing base stream flow during dry periods and controlling flooding), and provide habitat.

"Geological hazard areas"—means areas that because of the susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to siting commercial, residential, or industrial development consistent with public health or safety concerns. Geologic hazard areas include erosion, landslide, mine, seismic, and volcanic hazard areas.

a. Erosion hazard—areas identified as having severe or very severe erosion hazard by the USDA Natural Resource Conservation Service (NRCS) in the *Soil Survey of Skamania County Area, Washington*; October, 1990.
b. Landslide hazard—areas potentially subject to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors and shall include ravine sidewall areas and slopes of twenty (20) percent or greater.
c. Mine hazard areas—areas directly underlain by, adjacent to, or affected by mine workings such as adits, tunnels, drifts, or air shafts.
d. Seismic hazard areas—areas subject to severe risk or damage as a result of earthquake induced ground shaking, slope failure, settlement, or soil liquefaction.
e. Volcanic hazard areas—areas subject to pyroclastic flows, lava flows, and inundation by debris flows, mudflows, or related flooding resulting from volcanic activity.

"Grading"—means any excavation, filling or combination thereof.

"Groundwater" means the portion of water contained in interconnected pores or fractures in a saturated zone or stratum located beneath the surface of the earth or below a surface water body.

"Groundwater management" means the management and coordination of groundwater regulations, strategies, polities, and technical information for the protection and use of groundwater resources.

"Habitats of Local Importance"—means Fish and Wildlife Habitat Conservation Areas which are not designated as Priority Habitats and Species by the WDFW but are designated as locally significant by the city.

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

"Hazard tree" means any tree that is susceptible to immediate fall due to its condition (damaged, diseased, or dead) or other factors and which because of its location is at risk of damaging permanent physical improvements to property or causing personal injury.

"Hazardous substances" means any liquid, solid, gas or sludge including material, substance, product, commodity, or waste, regardless of quantity, which exhibits any of the physical, chemical, or biological properties described in WAC 173-303-090 or 173-303-100.

"Hazardous waste" means all dangerous and extremely hazardous waste as defined in RCW 70A.300.010 except for moderate-risk waste. RCW 70A.300.010 is adopted by reference for the purposes of this definition.

"Hazardous waste treatment" means the physical, chemical, or biological processing of dangerous waste to make wastes non-dangerous or less dangerous, safer for transport, amenable for energy or material resource recovery, amenable for storage, or reduced in volume.

"Hazardous waste storage" means the holding of dangerous waste for a temporary period as regulated by State Dangerous Waste Regulations, Chapter 173-303 WAC. For purposes of this title, Chapter 173-303 WAC as existing and hereafter amended is adopted by reference.

"Headwaters" means springs, lakes, ponds, or wetlands providing significant sources of water to a stream.

"Hydric soil" means soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of a hydric soil shall be determined following the methods described in the Washington State Wetland Identification and Delineation Manual (RCW 90.58.380).

"Hydrogeomorphic (HGM) Classification" —is a system used to classify wetlands based on the position of the wetland in the landscape (geomorphic setting), the water source

for the wetland, and the flow and fluctuation of the water once in the wetland.
"Impact"—means the effect of an activity on designated critical areas, their buffers or sensitive resources.
"Impervious surface"—means a hard surface area which either prevents or retards the entry of water into the soil. Examples include, but are not limited to, roofs, walkways, patios, driveways, carports, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, haul roads and soil surface areas compacted by construction operations, and oiled or macadam surfaces.
"Invasive Species"—are non-native plants which are destructive, competitive, and difficult to control as defined by the Skamania County Noxious Weed Control Board.
"Landslide"—means the down-slope movement of a mass of soil, or rock, including, but not limited to, rock falls, slumps, mud flows, debris flows, torrents, and earth flows.
"Lot of record"—means a lot shown as a part of a recorded subdivision, or any parcel of land described by metes and bounds in a recorded deed, record of survey, or other appropriate document recorded in the office of the County Auditor.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

"Minimizing impacts to wetlands or buffers" means:

1. Using appropriate and best available technology or best available science;
2. Taking affirmative steps to avoid or reduce impacts;
3. Sensitive site design and siting of facilities and construction staging areas away from regulated wetlands and their buffers;
4. Providing protective measures such as siltation curtains, hay bales and other siltation prevention measures, scheduling the regulated activity to avoid interference with wildlife and fisheries rearing, resting, nesting, or spawning activities;
5. Not jeopardizing the continued existence of endangered, threatened, rare, sensitive, or monitor species as listed by the federal government or the state of Washington.

"Mineral lands"—means lands that are not already characterized by urban growth and are of long-term commercial significance for the extraction of aggregate and mine resources, including sand, gravel, and valuable metallic substances.
"Mitigation"—means compensating for critical area impacts such that no overall net loss in acreage and/or functions occurs.
"Native"—when referring to plants or plant communities, means those species or communities which are indigenous to the watershed, including extirpated species.

"100-Year Flood"—is a flood having a 1% chance of being equaled or exceeded in any given year. Also referred to as the "base flood."

"National Wetland Inventory (NWI)" means a publicly available resource provided by the U.S. Fish and Wildlife Service that provides detailed information and maps showing the abundance, characteristics, and distribution of U.S. wetlands.

"Native vegetation" means plant species that occur naturally in a particular region or environment and were present before European colonization.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of this title.

"Non-federally regulated wetland" means a wetland that is not jurisdictional under federal regulations. Sometimes referred to as "isolated wetlands," these wetlands remain regulated under state and local laws and rules, whether or not they are protected by federal law.

"Normal water year" means a twelve-month period (October 1 through September 30) with average precipitation based upon data from the past fifty years.

"100-Year Flood Elevation"—means the elevation that the 100-year flood is expected to reach. Also referred to as the "base flood elevation."

"Ordinary high water mark"—is that mark which is found by examining the bed and banks of a water body and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years that the soils and vegetation have a character distinct from that of the abutting upland area. Where the ordinary high water mark cannot be found, it shall be the line of mean high water in areas adjoining fresh water. [WAC 173-22-030(11)]

"Planning Advisor"—means the officer charged with administration of the City Comprehensive Plan and zoning ordinances.

"Priority Habitats and Species (PHS)"—are important fish and wildlife species and habitats as determined by the WDFW. Priority Habitats include habitats of state and federal listed species as well as other important species.

"Qualified professional"—"means an accredited or licensed professional with a combination of education and experience in the discipline(s) appropriate for the subject matter that is being commented on; someone who would qualify as an expert in his/her field. The following further define qualifications required for each critical area.

a. Groundwater. A qualified professional means a hydrogeologist, geologist, engineer, or other scientist who meets all the following criteria has received a baccalaureate or post-graduate degree in the natural sciences or engineering; and has sufficient training and experience in groundwater hydrology and related fields as may be demonstrated by state registration, profession certifications, or completion of accredited university programs that enable that individual to make sound professional judgments regarding groundwater hazards and vulnerability.
b. Urban Forestry. Qualified professionals in urban forestry must have academic and field experience that makes them competent in urban forestry. This may include arborists certified by the International Society of Arboriculture or foresters

certified by the Society of American Foresters. Qualified professionals in urban forestry must possess the ability to evaluate the health and hazard potential of existing trees, and the ability to prescribe appropriate measures necessary for the preservation of trees during land development.

c. Critical Areas. Qualified professionals in critical areas must have obtained a baccalaureate degree or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology or a related field, and two years of related work experience. In addition:
   (1) A qualified professional for frequently flooded areas or a geologic hazard must be a registered professional engineer, geologist, engineering geologist or hydrogeologist licensed in the State of Washington with experience in the analyses required for the relevant hazard(s). For frequently flooded areas, a qualified professional may also be an architect where provided by state or federal law.
   (2) A qualified professional for wetlands must have a minimum of five years experience in wetland science including experience preparing wetland reports for review by regulatory agencies.

"Resource lands"—means agricultural, forest, and mineral lands which have long-term commercial significance.

"Restoration"—means measures taken to restore an altered or damaged natural feature including:

a. Rehabilitation defined as active steps taken to restore damaged critical areas or their buffers to the functioning condition that existed prior to an unauthorized alteration; and

b. Re-establishment defined as actions performed to reestablish structural and functional characteristics of the critical area that have been lost by alteration, past management activities, or catastrophic events. See also wetland creation, re-establishment, and rehabilitation.

"Revised Code of Washington (RCW)" means a compilation of all permanent Washington state laws currently in force.

"Riparian area"— means that area immediately adjacent to streams, ponds, and lakes that directly contributes to the water quality and habitat components of the water body, including but not limited to upland areas immediately adjacent to the water body that directly contribute shade, nutrients, cover or debris.

"SEPA" means State Environmental Policy Act, Title 43.21C RCW and Chapter 197-11 WAC.

"Shoreline Management Act (SMA)" means the law that requires all counties, towns, and cities with shorelines to develop and implement shoreline master programs (Chapter 90.58 RCW).

"Species:"

"Listed species" means state listed species including native fish and 014), threatened (WAC 220-200-100) or sensitive (WAC 220-200-100); and includes threatened

and endangered species under the Federal Endangered Species Act, 50 C.F.R.17.11 and 50 C.F.R.17.12.

"Priority species" means animal species listed by the Washington State Department of Fish and Wildlife, Priority Habitat and Species Program, that are of concern due to their low population and/or their sensitivity to habitat manipulation.

"Threatened species" means fish and wildlife which are native to the state of Washington and likely to become endangered in the foreseeable future throughout a significant portion of its range within the state without cooperative management or the removal of threats. Threatened species are legally designated in WAC 220-200-100.

"Sensitive species" means fish and wildlife species native to Washington that are vulnerable or declining, and are likely to become endangered or threatened in a significant portion of their ranges within the state, without cooperative management or the removal of the threats.

"State Environmental Policy Act (SEPA), as amended"—means the State Environmental Policy Act (Chapter 43.21C RCW), its implementing rules (Chapter 197-11 WAC), and NBMC Chapter 21.04.

"Stormwater Facility"—means a constructed component of a stormwater drainage system, designed or constructed to perform a particular function or multiple functions. Stormwater facilities include, but are not limited to, pipes, swales, ditches, culverts, street gutters, detention ponds, retention ponds, constructed wetlands, infiltration devices, catch basins, oil/water separators, and biofiltration swales.

"Stream"—means water contained within a channel, either perennial or intermittent, and classified according to WAC 222-16-030 or WAC 222-16-031. Streams are those areas where surface waters flow sufficiently to produce a defined channel or bed. A defined channel or bed is indicated by hydraulically sorted sediments or the removal of vegetative litter or loosely rooted vegetation by the action of moving water. The channel or bed need not contain water year-round. Streams also include natural watercourses modified by humans. Streams do not include drainage ditches which are not modifications of natural watercourses. This definition is not meant to include irrigation ditches, canals, stormwater runoff devices or other entirely artificial watercourses unless they are used to convey streams naturally occurring prior to construction. Those topographic features that resemble streams but have no defined channels (i.e., swales) shall be considered streams when hydrologic and hydraulic analyses done pursuant to a development proposal predict formation of a defined channel after development.

"Swale" means a shallow drainage conveyance with relatively gentle side slopes, generally with flow depths less than one foot.

"System function and values" is a technical term used to identify the role of a critical area in a given area as opposed to its mere physical presence and size; used most often when comparing alternatives for mitigation purposes.

"Toe of slope" means a point or line on the upper surface of a slope where it changes to horizontal or meets the original surface. The outermost inclined surface at the base of a hill; part of a foot slope.

"Topography" means the drawing on a map line that accurately represents particular and consistent elevation levels on the land area depicted on said drawing; also, the actual physical surface's relief characteristics.

"Triggering application" means an application for one of the permits or approvals listed in this chapter.

"Take" —as it relates to Section 9 of the Endangered Species Act (ESA) makes it illegal to take an endangered species of fish or wildlife. The definition of ``take'' is to ``harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.'' (16 U.S.C. 1532(19)).
"Urban growth area (UGA)"—means an urban growth area designated in the comprehensive plan.
"Urban growth boundary (UGB)"—means the boundary of an urban growth area designated in the comprehensive plan.

"Urban growth, characterized by"—means land having urban growth on it, or land located in relationship to an area with urban growth on it as to be appropriate for urban growth, or any and all incorporated areas.
"Utility"—means a provider to the public or individual recipients of such services as water supply, electric power, gas, communications, and sanitary sewers.
"Utility line"—means pipe, conduit, cable, other similar means or facility by which services are conveyed to the public or individual recipients.
"Washington Administrative Code (WAC)" means administrative rules implementing state laws.

"Wetlands"— means an area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created (but not as mitigation for impacts to wetlands) from non-wetland sites, including, but not limited to irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities or those wetlands created after July 1, 1990 that were unintentionally created as a result of the construction of a road, street or highway. Wetlands shall include those artificial wetlands intentionally created from non-wetland areas to mitigate conversion of wetlands.
"Wetland classes and subclasses" means descriptive classes of the wetlands taxonomic classification system of the United States Fish and Wildlife Service (Cowardin, et al. 1978).

"Wetland creation—means the manipulation of the physical, chemical or biological characteristics present to develop a wetland on an upland or deepwater site where a wetland did not previously exist. Activities typically involve excavation of upland soils to elevations that will produce a wetland hydroperiod, hydric soils, and support the growth of hydrophytic plant species. Creation results in a gain in wetland acres and functions.
"Wetlands Delineation Manual"—means the approved federal wetland delineation manual and applicable regional supplements.

"Wetland enhancement"—means the manipulation of the physical, chemical or biological characteristics of a biological wetland to increase or improve specific functions or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention or wildlife habitat. Activities typically consist of planting vegetation, controlling non-native or invasive species, modifying site elevations to result in open water ponds or some combination of these. Enhancement results in a change in certain wetland functions and can lead to a decline in other wetland functions. It does not result in a gain in wetland acres.

"Wetland re-establishment"—means the manipulation of the physical, chemical or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Activities include but are not limited to removing fill material, plugging ditches or breaking drain tiles. Re-establishment results in a gain in wetland acres and functions.

"Wetland Rehabilitation"—means the manipulation of the physical, chemical or biological characteristics of a site with the goal of repairing natural or historic functions, and processes of a degraded wetland. Activities include but are not limited to breaching a dike to reconnect wetlands to a floodplain, restoring tidal influence to a wetland or breaking drain tiles and plugging drainage ditches. Rehabilitation results in a gain in wetland functions but not in wetland acres. (Ord. 1046, 2015)

21.10.030 Applicability; establishment of resource lands and critical areas

I. Applicability.

The provisions of this chapter apply only to lands designated as critical areas within the North Bonneville corporate limits and urban growth area that are either designated as critical areas and their buffers on the city's official critical areas maps, or are critical areas and buffers which are identified as part of a project specific application and land use review.

A. Properties containing critical areas are subject to this chapter.

B. Buffers are protected and impacts to buffers are regulated to help improve the functional values of critical areas.

C. When the requirements of this chapter are more stringent than those of other North Bonneville codes and regulations, the requirements of this chapter shall apply.

D. Where a property contains two or more critical areas, the site shall meet the minimum standards and requirements for each identified critical area as set forth in this chapter.

E. The city shall not approve any land use, building or site improvement permit 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, if the proposed activity does not comply with the requirements of this chapter.

II. Development Permit Required. The City of North Bonneville shall not grant any permit, license, or other development approval to alter the condition of any land, water, or

vegetation, or to construct or to alter any structure or improvement, nor shall any person alter the condition of any land, water, or vegetation, or construct or alter any structure or improvement for any development proposal within a critical area or its buffer regulated by this chapter, except in compliance with the provisions of this chapter shall be considered a violation and subject to enforcement procedures.

~~II.~~III. State and Federal Agency Review. Compliance with the provisions of this chapter does not necessarily constitute compliance with other federal, state, and local regulations and permit requirements that may be required (for example, Shoreline Permits, Hydraulic Project Approval (HPA) permits, Clean Water Act Section 404 permit(s) and 401 certification, Ecology Administrative Orders, or NPDES permits). Regulated activities are subject to review and comment as required through the SEPA and/or JARPA review process. The applicant is responsible for complying with these requirements, apart from the process established in this chapter.

~~III.~~IV. List of resource lands.

If and where applicable, the incorporated areas of the city shall be designated as agricultural, forest, and mineral resource lands.

~~IV.~~V. List of critical areas.

The incorporated area of North Bonneville is hereby divided into the following--not mutually exclusive--critical areas where appropriate:

A. Wetlands

B. Critical Aquifer Recharge Areas

C. Frequently Flooded Areas

D. Geologically Hazardous Areas

E. Fish and Wildlife Habitat Conservation Areas

~~E.~~F. Slopes with gradient of thirty percent or greater.

~~V.~~VI. Applicability by Activity.

A. Table 21.10.030-1 establishes the level of review required for uses or activities under this chapter.

B. Exempt. Activities or uses that are exempt require no review and do not need to meet the standards of this chapter.

C. Review Required. Activities and uses that are categorized as "review required" must comply with the standards of the chapter but no special report is needed. Determination of compliance with this chapter shall be determined through the review process required for the underlying development permit application.

D. Map Location. The general location of critical areas is depicted on the adopted North Bonneville critical areas map. The critical areas map is an indicator of probable regulated areas. The precise limits of critical areas and their attendant buffers on a particular parcel of land shall be determined by the applicant prior to

approval of a development action on the subject property. Development shall avoid critical areas, and where avoidance is not practical, as determined by the administrator, development shall minimize adverse impacts to critical areas and buffers, consistent with the provisions of this chapter. To determine whether avoidance is practical, the administrator shall consider issues such as: the substantial evidence presented by the applicant demonstrating the avoidance measures the applicant considered; the quality of the critical resource and buffer functions and values to be impacted, avoidance of impacts to higher quality resources and buffers is preferred; the nature and extent of mitigation and enhancement measures proposed to compensate for the proposed impact; whether the impacts proposed are necessary to implement the city's capital facilities plan; and other factors determined relevant by the administrator. The administrator may also consider the financial implications of avoidance but shall not give private gain greater weight than resource management founded upon best available science. The community development department shall keep on permanent file and maintain the critical areas map.

E. Use of Existing Procedures and Laws. The following laws and procedures shall be used to implement this chapter:

1. North Bonneville Critical Areas Ordinance (NBCAO).
2. The State Environmental Policy Act (SEPA), Chapter 43.21C RCW.
3. The Shoreline Management Act (SMA), Chapter 90.58 RCW.

F. Administration. When the administration determines a proposed development or activity is within, abutting, or is likely to adversely affect a critical area or buffer pursuant to the provisions of this chapter, the administrator shall:

1. Determine the likely presence of a critical area;
2. Determine the appropriate use as provided in this chapter and require project plans to incorporate appropriate setbacks or buffers to avoid critical areas and meet specific performance standards;
3. Determine appropriate development or mitigation measures or require the applicant to prepare a critical area assessment report;
4. Review and evaluate the proposal, the critical area report, and relative information and:
    a. Determine whether the development proposal conforms to the purposes and performance standards of the NBCAO,
    b. Assess the potential impacts to the critical area and determine if they can be avoided or minimized,
    c. Determine whether mitigation proposed by the applicant is sufficient to protect the functions and values of the critical area, achieving no net loss of ecological function, and public health, safety, and welfare concerns

consistent with the goals, purposes, objectives, and requirements of the NBCAO; and

d. Impose any required conditions to assure compliance with this chapter, including mitigation measures, implementation and monitoring.

~~F.~~G. Critical Area Report. For activities where a critical area report is required, the applicant must submit a report consistent with this chapter and with the underlying development application and will submit additional application fees consistent with the adopted fee schedule. (CAR)—Authority and Use. When the administrator determines a proposed development is within, abutting, or is likely to adversely affect a critical are or buffer pursuant to the provisions of this chapter, the administrator shall have the authority to require a critical area report (CAR). A qualified professional shall prepare the report that includes a reasonable level of technical study and analysis to protect the public health, safety and welfare as well as critical area protection. The intent of these provisions is to require a reasonable level of technical study and analysis sufficient to protect critical areas. The analysis shall be commensurate with the value or sensitivity of a particular critical area and relative to the scale and potential impacts of the proposed activity.

~~G.~~H. The Planning Advisor shall have the discretion to determine whether the proposed activity may adversely impact protected critical areas and/or their buffers and shall assign the appropriate level of review, exempt, review required, or critical areas report. The decision of the Planning Advisor may be appealed to the Planning Commission.

Table 21.10.030-1 Applicability by Activity

Use/Activity	Development located in any of the following critical areas may be exempt (E), Review Required (RR), or subject to a critical area report (CAR):				
	Wetland	Fish and Wildlife Habitat	Critical Aquifer Recharge	Geological Hazardous Areas	Frequently Flooded Area
RESIDENTIAL ACTIVITIES					
One single-family dwelling on a preexisting legal lot located in a critical areas or buffers	RR	RR	RR	RR	RR
Single-family permit located outside critical areas or buffers	E	E	E	E	E
Residential development exceeding one single family dwelling on a legal lot of record within critical area or buffer	CAR	CAR	CAR	CAR	CAR
Residential development exceeding one single family dwelling outside critical areas or buffers	E	E	E	E	E

Table 21.10.030-1 Applicability by Activity					
Use/Activity	Development located in any of the following critical areas may be exempt (E), Review Required (RR), or subject to a critical area report (CAR):				
	Wetland	Fish and Wildlife Habitat	Critical Aquifer Recharge	Geological Hazardous Areas	Frequently Flooded Area
Expansion, alteration or addition to existing construction within a critical area or buffer	RR	RR	RR	RR	RR
Expansion, alteration or addition to existing construction outside of critical areas or buffers	E	E	E	E	E
Construction and modifications to existing structures that does not change the footprint of the building or does not increase the footprint within a critical area or buffer	E	E	E	E	E
Table 21.10.030-1 Applicability by Activity					
Use/Activity					
Expansion, alteration or addition to existing construction within a critical area or buffer	CAR	CAR	CAR	CAR	CAR
Expansion, alteration or addition to existing construction outside of critical areas or buffers	CAR	CAR	CAR	CAR	CAR
Public facilities and services identified on the CFP such as road, sewer and water infrastructure, power line, gas lines, and so forth	CAR	CAR	CAR	CAR	CAR
Construction and modifications to existing structures that does not change the footprint of the building or does not increase the footprint within a critical area or buffer	CAR	CAR	CAR	CAR	CAR
Public facilities on a site already developed where there is no proposed impact to a critical area or buffer	CAR	CAR	CAR	CAR	CAR
UTILTIES					

Table 21.10.030-1 Applicability by Activity					
Use/Activity	Development located in any of the following critical areas may be exempt (E), Review Required (RR), or subject to a critical area report (CAR):				
	Wetland	Fish and Wildlife Habitat	Critical Aquifer Recharge	Geological Hazardous Areas	Frequently Flooded Area
Normal and routine maintenance or repair of existing utility structures or rights-of-way that do not expand further into the critical area or buffer	CAR	CAR	CAR	CAR	CAR
Relocation within improved right-of-way of electric facilities, lines, equipment, or appurtenances, not including substations, with an associated voltage of fifty-five thousand (55,000) volts or less only when required by a local government agency	CAR	CAR	CAR	CAR	CAR
Relocation within improved right-of-way of utility lines, equipment, or appurtenances only when required by a local governmental agency which approves the new location of the facilities	CAR	CAR	CAR	CAR	CAR
Installation or construction in improved city road rights-of-way, and replacement, operation, or alteration of all electric facilities, lines, equipment, or appurtenances, not including substations, with an associated voltage of fifty-five thousand (55,000) volts or less	CAR	CAR	CAR	CAR	CAR
Installation or construction in improved city road rights-of-way and replacement, operation, repair, or alteration of all utility lines, equipment, or appurtenances	CAR	CAR	CAR	CAR	CAR
OTHER ACTIVITIES					
Clearing, filling, grading, and native vegetation removal activities within a critical area or buffer	CAR	CAR	CAR	CAR	CAR

Table 21.10.030-1 Applicability by Activity					
Use/Activity	Development located in any of the following critical areas may be exempt (E), Review Required (RR), or subject to a critical area report (CAR):				
	Wetland	Fish and Wildlife Habitat	Critical Aquifer Recharge	Geological Hazardous Areas	Frequently Flooded Area
Repair of existing structures, infrastructure improvements, utilities, public or private roads or drainage systems in critical areas or buffers	CAR	CAR	CAR	CAR	CAR
Public facilities on a site already developed where there is no proposed impact to a critical area or buffer	CAR	CAR	CAR	CAR	CAR
Public improvement projects within an existing improved right-of-way or roadway easement	CAR	CAR	CAR	CAR	CAR
Chemical applications subject to applicable local, state or federal handling and application requirements	CAR	CAR	CAR	CAR	CAR
Minor site investigative work, up to 10 cubic yards of fill or removal or removal of trees of six inches dbh or less	CAR	CAR	CAR	CAR	CAR
New construction on vacant land in critical areas or buffers	CAR	CAR	CAR	CAR	CAR
New construction previously approved prior to adoption of the ordinance codified in this chapter	E	E	E	E	E
New construction on vacant land outside critical	E	E	E	E	E

Table 21.10.030-1 Applicability by Activity					
Use/Activity	Development located in any of the following critical areas may be exempt (E), Review Required (RR), or subject to a critical area report (CAR):				
	Wetland	Fish and Wildlife Habitat	Critical Aquifer Recharge	Geological Hazardous Areas	Frequently Flooded Area
Hand removal of invasive weeds and blackberries	E	E	E	E	E
Impervious public and private pedestrian trails within a critical area or buffer	RR	RR	RR	RR	RR
Select removal of dangerous trees when approved by the Public Works Director	RR	RR	RR	RR	RR

Construction of fences in a critical area or buffer	RR	RR	RR	RR	RR
Vegetation removal and maintenance activities inside existing landscaped areas on lots that predate adoption of this chapter (other than removal of trees greater than six inches dbh)	E	E	E	E	E
New construction of a dock, expansion, alteration or addition to existing docks within a critical area or buffer	RR	RR	RR	RR	RR
Construction or modification of boundary markers or fences	E	E	E	E	E
Emergencies activities authorized by the Planning Advisor pursuant to NBMC 21.10.050(II)(A)(1).	E	E	E	E	E

21.10.040 Data maps; interpretation of data maps; effect of data maps

I. Data maps.

Resource lands and critical areas are hereby designated on a series of data maps, listed in Exhibit A or as amended, maintained at City Hall. These maps contain the best available graphic depiction of resource lands and critical areas and will be updated as reliable data become available. The maps are for information and illustrative purposes only and are not regulatory in nature. The resource lands and critical areas data maps are intended to alert the development community, appraisers, and current or prospective property owner of a potential encounter with a use of development-limiting factor based on the natural systems. The presence of a resource designation or critical area on the data maps is sufficient foundation for the city to order an analysis for the factor(s) identified prior to acceptance of a development application as being complete and ready for processing under the Comprehensive Plan and Zoning Ordinance of the city. (Note: See Exhibit A at the end of the chapter listing critical areas maps.)

II. Interpretation of data maps.

The official charged with administration of the Comprehensive Plan and Zoning Ordinance of the city is the official charged to interpret the data maps of this ordinance, subject to the same appeal procedures as apply to zoning appeals as may be set out in said Comprehensive Plan and Zoning Ordinance.

The data maps found in Exhibit A or as amended are to be used as a general guide to the location and extent of resource lands and critical areas. Resource lands and critical areas indicated on the data maps are presumed to exist in the locations shown and are protected under all the provisions of this ordinance. The exact location of resource lands and critical areas shall be indicated by the applicant as a result of field

investigations performed by qualified professionals using definitions found in this ordinance. All development applications are required to show the boundaries of all resource lands and critical areas on or within three-hundred (300) feet of the subject parcel on a scaled drawing (1:2,400 or larger scale) prior to the development application being considered "complete" for processing purposes.

The conclusion by the appropriate city official that a parcel of land or a part of a parcel of land that is subject of a proposed development application is within the boundary(s) of one or more critical areas or resource lands and associated buffers, as shown on the data maps, shall serve as cause for additional investigation and analysis to be conducted by the applicant. The site-specific analysis shall be limited to those resource lands and critical areas indicated on the data maps. In the event of multiple designations, each subject matter will be addressed independently and collectively for the purpose of determining development's limitations and appropriate mitigating measures.

21.10.050 General provisions; allowed uses; exemptions reasonable use exceptions

I. General Provisions.

Prior to accepting a development application tendered pursuant to the Comprehensive Plan and Zoning Ordinance, Building or Land Divisions Ordinance of the city, the appropriate city official shall consult data maps for the purposes of determining whether or not the property subject to the applications is within any area shown as a resource land or critical area. When such areas are encountered, the applicant will immediately be notified and the type(s) of resource land or critical area disclosed. Instructions shall be provided to the applicant on the type(s) of evaluation and site-specific analysis that will be required as supplement to the application materials necessary to bring the application up to a standard that can be characterized as "complete" and eligible for processing.

From the effective data of NBMC Title 20, no development applications processed under the Comprehensive Plan and Zoning Ordinance, Building or Land Divisions Ordinance of the city shall be approved without a written finding that NBMC Title 20 has been considered, additional information has been assembled under NBMC Title 20, or was not required, and that the purpose and intent of NBMC Title 20 have been accorded substantial consideration.

A. Approval Required. Unless the requirements of this chapter are met, North Bonneville shall not grant any approval or permission to alter the condition of any land, water, or vegetation, or to construct or alter any structure or improvement regulated through the following: Building permit, commercial or residential, franchise right-of-way construction permit, site development permit, right-of-way permit, shoreline permits, or any subsequently adopted permit or required approval not expressly exempted by this chapter.

B. Other Law. Compliance with these regulations does not remove an applicant's obligation to comply with applicable provisions of any other federal, state, or local law or regulation.

II. Allowed Uses.

The city may allow the following uses on critical areas and within buffer areas subject to the review and mitigation requirements of this chapter:

A. Pervious and impervious public and private trails for nonmotorized uses provided that the following conditions are met:

1. Low impact recreational uses. The following uses are necessary for the understanding and enjoyment of critical areas.

a. Outdoor recreational or educational activities which do not significantly affect the functions and values of the critical area and buffers (including wildlife management or viewing structures, outdoor scientific or interpretive facilities, and pervious trails for non-motorized use, and other similar uses) and meet the following criteria:

i. Trails in wetlands or wetland buffers must be limited to permeable surfaces no more than five (5) feet in width, except when single multi-use pathways are used in lieu of concrete sidewalks as allowed in NBMC 12.24.200(F) and must not exceed six (6) feet in width.

ii. Trails are not permitted in wetlands except for minor raised/elevated crossings as an alternative to fill, that demonstrate that impacts have been minimized.

iii. Trails must be located within the outer twenty-five (25) percent of a wetland buffer, and should be designed to avoid removal of significant trees.

b. Harvesting wild crops which do not significantly affect the function of the wetland or regulated buffer (does not include tilling of soil or alteration of wetland area).

c. Below, or above ground public utilities, facilities and improvements, initiated by the city, where necessary to serve development including: streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, open space, and parks and recreational facilities, anticipated in the capital facilities plan, where there is no other reasonable alternative, based on topographic and environmental conditions, as determined by the Planning Advisor;

d. Removal of dangerous trees, as determined by the city Public Works Director, or the removal of invasive or nuisance plants as defined by the Skamania County Noxious Weed Control Board;

e. Wetland Banking. Construction, enhancement or restoration of wetlands to

use as mitigation for future wetland development impacts in the same watershed is permitted if:

i. A critical area permit shall be obtained prior to any mitigation banking. Federal and state wetland regulations, if applicable, shall supersede city requirements.

ii. All impacts to wetlands and wetland buffers shall be mitigated and monitored consistent with NBCAO 21.10.II.A

~~A.~~B. Construction, replacement, or alteration of new or existing construction on a legal lot of record, created prior to the effective date of this chapter, so long as the construction conforms to the height regulations, lot coverage and dimension standards and other design provisions for the underlying zone in which the construction is located. The construction shall be used as allowed in the underlying zoning designation. The city may modify underlying zoning district dimensional standards applicable by up to a 50 percent adjustment, if necessary to protect critical areas;

~~B.~~C. Limited Uses. Limited uses shall avoid critical areas, and where allowed within buffer areas shall be subject to the mitigation measures and implementation of a monitoring plan as described in this chapter. All limited uses shall be consistent with the provisions of this chapter and SEPA;

D. Development Subject to Site Plan Review. Any expansion, alteration, or addition to an existing or new building or structure affecting critical areas shall be subject to site plan review, unless otherwise exempted in this chapter;

1. Development Subject to Site Plan Review. Any new building or structure affecting critical areas or buffers shall be subject to site plan review, unless otherwise exempted in this chapter.

2. Storm Water Facilities. Storm water facilities may be allowed in buffers in wetlands with low habitat function (less that twenty points on the habitat section of the rating system form); provided, the facilities shall be built on the outer fifty percent of the buffer and not degrade the existing buffer function and are designed to blend with the natural landscape. Unless determined otherwise by the administrator.

E. Development approvals shall ensure that all best management practices are employed to avoid introducing pollutants, sediments, chemicals, etc into all critical areas and buffers.

~~C.~~F. Use intensity. The intensity of the land use proposed has a direct relationship to the potential severity of impacts to critical areas and buffers. Generally, most land uses allowed in an urban zoning district are high impact uses.

III. Exemptions.

A. Exempt Activities in All Critical Areas. The following developments, activities, and associated uses shall be exempt from the provisions of this chapter provided that

they are otherwise consistent with the provisions of other local, state, and federal laws and requirements, and a written request for exemption has been filed with and approved by the Planning Advisor. The Planning Advisor shall have the authority to negotiate memoranda of agreements with utility service providers or public agencies, and said agreements shall specify best management practices to be used in situations of emergency ~~,~~ and usual and customary repair, which if rigorously adhered to, may exempt said emergency or repair activity, including routine operation and maintenance from further review under this chapter. Memorandum of agreements shall be authorized by the North Bonneville City Council only after notice and completion of a public hearing on the full terms and merits of the agreement.

1. Emergencies. Emergency activities are those activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of damage to private property and that require remedial or preventative action in a timeframe too short to allow for compliance with the requirements of this chapter. For emergency actions that create an impact to a critical area or its buffer the applicant shall use reasonable methods to address the emergency; in addition, they must have the least possible impact to the critical area or its buffer. The person or agency undertaking such action shall notify the city within one working day following commencement of the emergency activity. Following the emergency appropriate mitigation shall be implemented and permanent activities, installations or impacts are subject to review and compliance with the applicable standards.

    a. Authorization. Notwithstanding the provisions of this chapter, the Planning Advisor may issue a temporary emergency permit prospectively or, in the case of imminent threats to public health, safety or welfare, retroactively, where the anticipated threat or loss may occur before a permit can be issued or modified under the procedures otherwise required by the Act and other applicable laws.

    b. Prior to issuing an emergency permit, the Planning Advisor shall issue a finding that extraordinary circumstances exist and that the potential threat to public health, safety or welfare from the emergency situation is clearly significant and substantial.

    c. Conditions. Any emergency permit granted shall incorporate, to the greatest extent practicable and feasible but not inconsistent with the emergency situation, the standards and criteria required for nonemergency activities under the Act and shall:

        1) Be limited in duration to the time required to complete the authorized emergency activity, not to exceed 90 days; and

        2) Require, within this 90-day period, the restoration of any wetland altered as a result of the emergency activity, except that if more than the 90 days from the issuance of the emergency permit is required to complete

restoration, the emergency permit may be extended to complete this restoration.

3) The person or agency undertaking emergency actions consult with the administrator and applicable state or federal agencies within thirty days after the notice of emergency to identify and thereafter implement suitable mitigation requirements.

d. Notice. Notice of issuance of an emergency permit shall be published in a newspaper having general circulation in the city not later than 10 days after issuance of such permit.

e. Termination. The emergency permit may be terminated at any time without process upon a determination by the city that the action is no longer necessary to protect human health or the environment.

2. Repair and Enhanced Replacement. Repair or enhanced replacement of existing structures, infrastructure improvements, utilities, public or private roads, dikes, levees or drainage systems, including operation and maintenance of existing facilities, that do not require construction permits, if the activity does not further alter or increase the impact to, or encroach further within, the critical area or buffer and there is no increased risk to life or property as a result of the proposed maintenance or repair.

3. Forest practices. Forest practices regulated and conducted in accordance with the provisions of Chapter 76.09 RCW and forest practices regulations, Title 222 WAC, and those that are exempt from North Bonneville's jurisdiction, provided that forest practice conversions are not exempt - All Class IV conversions are subject to the rules of the North Bonneville CAO.

4. Right-of-way. Activities within the improved public right-of-way or recorded easement. Replacement, modification, installation, or construction of utility facilities, lines, pipes, mains, equipment, or appurtenances, when such facilities are located within the improved portion of the public right-of-way or recorded easement.

5. Chemical Applications. The application of herbicides, pesticides, organic or mineral-derived fertilizers, or other hazardous substances, if necessary; provided, that their use shall be restricted in accordance with Department of Fish and Wildlife Management Recommendations, the regulations of the Department of Agriculture and the U.S. Environmental Protection Agency.

6. Minor Site Investigative Work. Work necessary for land use submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new roads or significant amounts of excavation. In every case, impacts to the critical area shall be minimized and disturbed areas shall be immediately restored.

7. Boundary Markers. Construction or modification of boundary markers or fences.

8. Construction and modifications to existing structures that does not increase the footprint of the structure or increase the footprint within a critical area or buffer.

9. Expansion, alteration or addition to existing construction outside of critical areas or buffers.

10. New construction previously approved prior to adoption of the ordinance codified in this chapter.

11. New construction on vacant land outside critical areas or buffers.

12. Residential development exceeding one single family dwelling or single-family permit located outside critical areas or buffers.

13. The removal of the following vegetation with hand labor and light equipment, and vegetation removal that is a hazard to electrical power lines with handheld and walk-beside equipment such as mowers and weed eaters in compliance with the provisions contained in the ANSI A300 (Part 1) guidelines, including, but not limited to:

    a. Invasive non-native weeds;

    b. Vegetation removal and maintenance activities inside existing landscaped areas on lots that predate adoption of this chapter (other than removal of trees greater than six (6) inches dbh).

14. Utility exemptions.

    a. Normal and routine maintenance or repair of existing utility structures or rights-of-way.

    b. Relocation of electric facilities, lines, equipment, or appurtenances, not includes substations, with an associated voltage of fifty-five thousand (55,000) volts or less only when required by a local government agency.

    c. Relocation within improved right-of-way of utility lines, equipment, or appurtenances only when required by a local governmental agency which approves the new location of the facilities.

    d. Installation or construction in improved city road rights-of-way, and replacement, operation, or alteration of all electric facilities, lines, equipment, or appurtenances, not including substations, with an associated voltage of fifty-five thousand (55,000) volts or less.

    e. Installation or construction in improved city road rights-of-way and replacement, operation, repair, or alteration of all utility lines, equipment, or appurtenances.

15. Public agency exemptions.

    a. Public facilities on a site already developed where there is no proposed impact to a critical area or buffer.

b. Public improvement projects located within existing improved right-of-way or roadway easements.

B. Exemption Request and Review Process. The proponent of the activity shall submit a completed exemption request form to the Planning Advisor that describes the activity and states the exemption listed in this section that applies. The Planning Advisor shall review the exemption request to verify that it complies with this chapter and approve or deny the exemption. If the exemption is approved, it shall be placed on file with the department and the requesting party notified. If the exemption is denied, the proponent may continue in the review process and shall be subject to the requirements of this chapter.

C. Exempt Activities Shall Minimize Impacts to Critical Areas. All exempted activities shall use reasonable methods and best management practices to avoid potential adverse impacts to critical areas. To be exempt from this chapter does not give permission to degrade a critical area or ignore risk from natural hazards. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity shall be restored, rehabilitated, or replaced at the responsible party's expense.

IV. Reasonable use exception.

A. Reasonable Use Exceptions. The following exceptions shall apply. The administrator shall apply the standards of this chapter to the maximum extent practicable to avoid and minimize adverse impacts on the functions and values of critical areas and buffers. Mitigation of impacts, consistent with this chapter, is required. Reasonable use exceptions include:

1. The placement or modification of one single-family residence and normal accessory structures on a buildable legal lot of record. The administrator shall employ reasonable discretion in applying the standards of this chapter to limit the proposed location and size of structures and removal of native vegetation.
2. The expansion of a home or accessory structure on a lot that does not show building or development envelopes, wetlands or wetland buffers on the recorded plat, not to exceed fifty percent of the existing building footprint.
3. The replacement of single-wide mobile home with another dwelling and normal accessory structures. Per NBCAO 20.20.010 and 20.20.070.
4. Fire hazard clearing recommended by the fire marshal, or consistent with written fire marshal or fire chief guidelines.

B. General Requirements. The administrator shall prepare and maintain application forms necessary to implement this subsection.

C. Application Requirements.

1. Preliminary Review. The provisions for conducting a preliminary review of a proposed reasonable use exception are set forth in NBCAO 21.10.050.IV.

2. Regulations—General Provisions—Application Filing.

a. Reasonable use exception applications shall be reviewed for completeness in accordance with city submittal standards checklists.

b. An applicant for a development proposal may file a request for a reasonable use exception which shall include the following information:

i. A description of the areas of the site which are critical areas or within setbacks required under this title;

ii. A description of the amount of the site which is within setbacks required by other standards of this title;

iii. A description of the proposed development, including a site plan;

iv. An analysis of the impact that the amount of development described in subsection NBCAO 21.10.050.IV would have on the critical area(s);

v. An analysis of whether any other reasonable use with less impact on the critical area(s) and associated buffer(s) is possible;

vi. A design of the proposal so that the amount of development proposed as reasonable use will have the least impact practicable on the critical area(s);

vii. An analysis of the modifications needed to the standards of this chapter to accommodate the proposed development;

viii. A description of any modifications needed to the required front, side, and rear setbacks; building height; and buffer widths to provide for a reasonable use of the site while providing greater protection to the critical area(s); and

ix. Such other information as the administrator determines is reasonably necessary to evaluate the issue of reasonable use as it relates to the proposed development.

D. Reasonable Use Approval Criteria. The administrator shall approve a reasonable use exception when the following criteria are met:

1. There is no other reasonable use or feasible alternative to the proposed development with less impact on the critical area(s);

2. The proposed development does not pose a threat to ~~the~~ public health, safety, or welfare on or off site;

3. Any alteration of the critical area(s) shall be the minimum necessary to allow for reasonable use of property;

4. The proposed development will not result in a "take" of a threatened or endangered species;

5. The inability of the applicant to derive reasonable use of the property is not the result of actions by the applicant in subdividing the property or adjusting a boundary line thereby creating the undevelopable condition after the effective date of this chapter; and

6. The proposal mitigates the impacts on the critical area(s) to the maximum extent possible, while still allowing reasonable use of the site. The applicant shall prepare and implement a mitigation and monitoring plan consistent with NBCAO 21.10

V. Variances.

A. An applicant who seeks to vary from requirements of this chapter may seek a variance pursuant to this section. The city council shall review a request to vary from requirements of this chapter through a review process. The administrator may elect to seek guidance from and may rely upon state agency expertise at the applicant's expense.

B. Approval Criteria. An application to vary from the requirements of this chapter shall demonstrate compliance with all the following criteria:

1. There are special circumstances applicable to the subject property or to the intended use such as shape, topography, location or surroundings that do not apply generally to other properties;

2. The variance is necessary for the preservation and enjoyment of substantial property right or use possessed by other similarly situated property, but which because of special circumstances is denied to the property in question;

3. Granting the variance will not be materially detrimental to the public welfare or injurious to the property of improvement;

4. Granting the variance will not violate, abrogate, or ignore the goals, objectives, or policies of the North Bonneville comprehensive plan;

5. In addition to the approval criteria above, an application to vary from the buffer requirements of fish and wildlife habitat conservation area or wetland buffer shall demonstrate that the requested buffer width modification preserves adequate vegetation to: maintain proper water temperature; minimize sedimentation; and provide food and cover for critical fish and wildlife species;

6. When granting a variance, the administrator may attach specific conditions to the variance that will serve to meet the goals, objectives, and policies of this chapter, including the preparation and implementation of a mitigation and monitoring plan consistent with NBCAO 21.10

VI. Takings exception

a. General Requirements.

i. If a property owner has owned property before the effective date of this chapter and can establish by a procedure set forth in sections B and C below,

that the application of this chapter to that property would result in an unconstitutional taking of a legal lot without just compensation, development may be allowed that is consistent with the allowed uses of the underlying zone, general purposes of this chapter, and the public interest.

ii. Nothing in this chapter is intended to preclude a constitutional diminution in value of property caused by application of this chapter, provided some economically viable use remains.

iii. The Planning Advisor shall prepare and maintain application forms necessary to implement this section.

b. Application Requirements.

i. An applicant for a development proposal may file a request for a takings exception which shall include the following information:

(a.) A description of the areas of the site which are critical areas or within setbacks required under this chapter;

(b.) A description of the amount of the site which is within setbacks required by other standards of the City code;

(c.) A description of the proposed development, including a site plan;

(d.) An analysis of the impact that the amount of development would have on the critical area(s);

(e.) An analysis of whether any other economic use is possible that would result in less impact on the critical area(s) and associated buffer(s);

(f.) A design of an economic use of the property that will have the least impact practicable on the critical area(s);

(g.) An analysis of the variance from the standards of this chapter to accommodate the proposed development;

(h.) A description of any modifications needed to the required front, side, and rear setbacks; building height; and buffer widths to provide for an economically viable use of the site while providing greater protection to the critical area(s); and

(i.) Such other information as the city determines is reasonably necessary to evaluate the issue of economically viable use as it relates to the proposed development, including any evidence that the regulation is unduly oppressive on the landowner.

(j.) The city shall process a request for a takings exception as a Type II procedure pursuant to NBMC 18.18.01.230.

c. Takings Exception Decision Criteria.

The review authority shall approve a reasonable use exception if the authority determines the following criteria are met:

i. The proposed use is consistent with the permitted and allowed uses of the underlying zone;

ii. The proposed development does not pose a threat to the public health, safety, or welfare on or off the site;

iii. Any alteration of the critical area(s) shall be the minimum necessary to allow for an economically viable use of the property;

iv. The proposed development will not result in a "take" of a threatened or endangered species;

v. The inability of the applicant to derive an economically viable use of the property is not the result of actions taken by the applicant or immediate predecessor in interest, after the effective date of this chapter, in subdividing the property or adjusting a boundary line, or otherwise creating the undevelopable condition;

vi. Whether the application of the chapter is unduly oppressive on the landowner, and whether the regulation is narrowly applied to achieve its purpose, including an analysis of the nature of harm sought to be avoided; the availability and effectiveness of less drastic protection measures; and the economic loss suffered by the property owner. Factors for this analysis include, on the public's side, the seriousness of the public problem; the extent to which the owner's land contributes to it; the degree to which the regulation solves it; and the feasibility of less oppressive solutions, and on the owner's side, the amount and percentage of value lost; the extent of remaining use; past, present and future uses; the temporary or permanent nature of the regulation; the extent to which the owner should have anticipated such regulation; and the feasibility of the owner altering present or currently planned uses; and

vii. The proposal mitigates the impacts on the critical area(s) to the maximum extent possible, while still allowing an economically viable use of the site. The applicant shall prepare and implement a mitigation and monitoring plan consistent with this chapter.

VII. Best Available Science.

Critical area reports and decisions to alter critical areas shall rely on the Best Available Science to protect the functions and values of critical areas and must give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish and their habitat. Best Available Science is ~~that~~ scientific information applicable to the critical area prepared by local, state or federal natural resource agencies, a qualified scientific professional or team of qualified scientific professionals that is consistent with criteria established in WAC 365-195-900 through WAC 365-195-925.

21.10.060 Critical area report standards and requirements

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

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

A. The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;

B. A copy of the site plan for the development proposal including:

1. A map to scale depicting critical areas, buffers, the development proposal, and any areas to be cleared; and

2. Proposed stormwater management and sediment control plan for the development including a description of any impacts to drainage alterations; and

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

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

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

E. Plans for adequate mitigation, as needed, to offset any impacts, in accordance this chapter. The applicant is required to demonstrate that all reasonable efforts have been made to avoid and minimize impacts to critical areas, in the following sequential order of preference:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;

2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;

3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;

5. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or

6. Monitoring the impact and taking appropriate corrective measures.

F. Any additional information required for the specific critical areas and buffers as specified in NBMC 21.740.110 Fish and Wildlife Habitat Conservation Area, NBMC 21.740.120 Frequently Flooded Areas, NBMC 21.740.130 Geologic Hazard Areas, and NBMC 21.740.140 Wetlands.

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

III. Mitigation Plan Requirements.

Approval. Administrator approval of a mitigation plan is prerequisite for approval of any development activity on critical areas.

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

A. Detailed Construction Plans.

B. The mitigation plan shall include descriptions of the mitigation proposed, such as:

1. The proposed construction sequence, timing, and duration;
2. Grading and excavation details;
3. Erosion and sediment control features;
4. A planting plan specifying plant species, quantities, locations, size, spacing, and density; and
5. Measures to protect and maintain plants until established.

C. The mitigation plan shall include a program for monitoring construction of the mitigation project and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring, and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the mitigation project. The mitigation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five (5) years. For forested and scrub-shrub communities ten (10) years or more of monitoring are needed. When the applicant believes that the conditions of the monitoring plan are met, the applicant shall contact the City and request that the City verify and certify so in writing. The City shall conduct an on-site assessment as part of the verification process. The applicant shall provide reasonable access to the property as necessary for verification and certification.

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

techniques or anticipated final outcome.

IV. Selective timber harvesting on critical lands.

A. Applicability. Consistent with RCW 76.09.240, the administrator extends its planning and zoning jurisdiction over forest practices in critical areas to the extent that:

1. Commercial forestry activity occurs on lands identified as critical areas on the city's adopted critical areas maps;
2. An application submitted under RCW 76.09.060 indicates that the lands will be converted to a use other than commercial timber productions;
3. The subject lands were platted after January 1, 1960; and
4. Consistent with the adopted North Bonneville comprehensive plan, the City of North Bonneville presumes that any application for commercial timber harvest within the North Bonneville urban growth boundary that is subject to Chapter 76.09 RCW et seq. is for the purpose of converting forested lands into urban lands.

B. Standards. Selective commercial timber harvesting may be permitted on critical areas subject to the following standards:

1. Written Plan Required. Trees to be removed shall be identified in a plan drawn to scale and shall be clearly marked prior to their removal. An applicant shall present a written plan explaining in detail the location of trees to be removed and the method of removal, administrator for review and approval.
2. Prior to approval of a harvesting permit, the applicant shall prepare and sign an agreement with the city stating that no development application shall be filed on the subject property, other than a single-family residence, for six years following completion of timber harvesting operations. The agreement shall run with the land. The city council shall review the agreement and upon approval, the applicant shall record the agreement with Skamania County and provide the city with a copy of the recorded instrument.
3. Selective tree removal on critical lands shall not result in loss of more than fifty percent of existing tree canopy covering critical areas.
4. The applicant shall demonstrate that the methods used for tree harvesting and removal are the least disruptive practicable.
5. Operations shall be limited to the dry season, that is, from May 1 through October 30.
6. Applicants for selective timber harvesting shall prepare an erosion control plan for review and approval by administrator and if the plan is approved shall comply with the plan during harvesting activity and shall maintain required

erosion control mechanisms for a period of one hundred eighty days after completion of the timber removal project.

C. Conditions. The administrator may recommend conditions of approval necessary to minimize adverse impacts on natural resource values, including water quality and wildlife habitat to the extent that such conditions are consistent with the North Bonneville comprehensive plan.

V. Application fees.

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

VI. Bonds to insure mitigation, maintenance and monitoring.

A. When mitigation required pursuant to a development proposal is not completed prior to the final permit approval, such as final plat approval or final building inspection, the administrator shall require the applicant to post a performance bond or other security in a form and amount deemed acceptable by the administrator. If the development proposal is subject to mitigation, the applicant shall post a performance bond and a mitigation bond or other security on a form and amount deemed acceptable by the administrator to ensure mitigation is fully functional.

B. The bond shall be in the amount of one hundred twenty-five percent of the estimated cost of the uncompleted actions or the estimated cost of restoring the functions and values of the critical areas that are at risk, whichever is greater and the cost of maintenance and monitoring for a ten-year period.

C. The bond shall be in the form of an assignment of savings account, an irrevocable letter of credit guaranteed by an acceptable financial institution with terms and conditions acceptable to the city attorney or other method acceptable to the planning administrator.

D. Bonds or other security authorized by this section shall remain in effect until the administrator determines, in writing, that the standards bonded for have been met. Mitigation bonds or other security shall be held by the city for a minimum of ten years to ensure that the required mitigation has been fully implemented and demonstrated to function and may be held for longer periods when necessary.

E. Depletion, failure or collection of bond funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring of restoration.

F. Public development proposals shall be relieved from having to comply with the bonding requirements of this section if public funds have previously been committed for 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 days after it is due or comply with other provisions of an approved mitigation plan shall constitute a default and the administrator may demand payment of any financial guarantees of require other action authorized by the city code or any other law.

H. Any funds recovered pursuant to this section shall be used to complete the required mitigation, maintenance or monitoring.

Critical area inspections.

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

21.10.070 Resource lands and critical areas; standards for site-specific analysis; additional critical area report requirements; development standards

I. Resource Lands.

A. Agricultural lands. (None identified)

B. Forest lands. (None identified)

C. Mineral resource lands. (None identified)

II. Residential density transfer.

A. The administrator may permit density transfer from critical areas (sending lands) to designated non-critical areas (receiving areas).

1. Residential Density Transfer. A property owner may transfer residential density to a receiving area.

a. A receiving area shall be on the same parcel or same property, within the same zoning classification, owned by the property owner sending the density.

b. Density may be transferred from a sending area only one time.

c. The value of the transfer shall be calculated as follows:

i. SFR Districts: The gross areas of a critical area completely avoided multiplied by the minimum number of units allowed per gross acre in the affected zoning district multiplied by sixty percent. For example, in an R1-10 zone, if two acres of critical areas are completely avoided and the minimum density allowed is four units per acre, the allowable density transfer would be 4.8 units. (2ac. × 4du/ac × 60% = 4.8).

ii. MFR District: The gross acreage of a critical area completely avoided multiplied by the minimum number of units allowed per gross acre in the affected zoning district multiplied by sixty percent. For example, if two

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acres of critical areas are completely avoided and the minimum density allowed is eight units per acre, the allowable density transfer would be 9.6 units. (2ac. × 8du/ac × 60% = 9.6).

iii. MH District: The gross acreage of a critical area completely avoided multiplied by the minimum number of units allowed per gross acre in the affected zoning district multiplied by sixty percent. For example, if two acres of critical areas are completely avoided and the minimum density allowed is six units per acre, the allowable density transfer would be 9.6 units. (2ac. × 6du/ac × 60% = 7.2).

2. Transfer Criteria. The administrator shall approve requests to transfer density subject to the following criteria:

a. Adverse impacts to natural resources on the receiving areas shall be mitigated consistent with the mitigation section of this chapter.

b. The building height standards of the receiving area shall be met.

c. No lot (gross area) shall be less than twenty percent of the minimum lot size within the receiving district.

d. No lot created as a result of density transfer that is smaller than the average minimum lot required in the receiving district may be located on the perimeter of the project site.

e. The transfer of density to a receiving area shall not result in an increase in density throughout the project greater than the maximum net density allowed in the base zone or in the construction of a housing type not otherwise allowed in the receiving area.

f. Critical areas and buffers within the sending area shall be enhanced at a ratio of four acres of enhanced function for every one acre (4:1) used in the density transfer calculations.

g. Sending areas shall be:

i. Dedicated to the city for public use; or

3. Protected as an unbuildable area by means of deed restriction, conservation easement or other mechanism approved by the city council. Recordation required. Density may be transferred from a protected critical areas area only once. The administrator (upon consultation with the city attorney) shall be responsible for approving the mechanism used for protecting each critical area. The administrator shall maintain a list of sites from which density has been transferred and a corresponding list of sites that have received density from protected critical areas. The applicant shall record the density transfer mechanism with Skamania County and shall furnish the administrator with a copy of the recorded instrument.

III. Critical Areas.

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A. Wetlands. This section provides standards for the "Wetlands" type of critical area and is applied pursuant to the general critical area regulations and processes in NBCAO Chapter 21.10

1. Site analysis—required for the purpose of establishing an exact wetland boundary using the criteria found in the approved federal wetland delineation manual and applicable regional supplements.

   Field delineation of the boundary is required and a scaled map must be produced (at 1:2,400 or larger). The classifications of Section 7.2 must then be applied to the wetland area to establish the category(s) of wetlands in evidence. The applicant or proponent shall provide a wetlands report prepared by a qualified professional.

2. Wetlands rating system—The following rating system, adapted from the WDOE wetland rating system found in the Washington State Wetland Rating System for Western Washington—2014 Update Version 2 (Publication #14-06-029, or as revised by WDOE) is hereby adopted for the purpose of determining Wetlands Classifications. The wetland rating system is used in part to determine buffer widths pursuant to Section 21.10.070.II.A.2. The wetland rating and buffer systems are also used for mitigation and enhancement options under Section 21.10.070.II.A.3.

   a. Wetland rating categories.

      (1) Category I. Category I wetlands are:

         (a) relatively undisturbed estuarine wetlands larger than 1 acre;

         (b) wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR;

         (c) bogs;

         (d) mature and old-growth forested wetlands larger than 1 acre;

         (e) wetlands in coastal lagoons;

         (f) interdunal wetlands that score 8 or 9 habitat points and are larger than 1 acre; and

         (g) wetlands that perform many functions well (scoring 23 points or more).

            These wetlands: (1) represent unique or rare wetland types; (2) are more sensitive to disturbance than most wetlands; (3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or (4) provide a high level of functions. The functions and values of these wetlands are irreplaceable and they must be preserved.

      (2) Category II. Category II wetlands are:

         (a) estuarine wetlands smaller than 1 acre, or disturbed estuarine

wetlands larger than 1 acre;

(b) interdunal wetlands larger than 1 acre or those found in a mosaic of wetlands; or wetlands with a moderately high level of functions (scoring between 20 and 22 points). These wetlands are difficult, though not impossible, to replace, and provide high levels of some functions.

(3) Category III. Category III wetlands are:

(a) wetlands with a moderate level of functions (scoring between 16 and 19 points);

(b) can often be adequately replaced with a well-planned mitigation project; and

(c) interdunal wetlands between 0.1 and 1 acre.

Wetlands scoring between 16 and 19 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.

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

a. Date of wetland rating. Wetland rating categories shall be applied as the wetland exists on the date of adoption of the rating system by the local government, as the wetland naturally changes thereafter, or as the wetland changes in accordance with permitted activities. Wetland rating categories shall not change due to illegal modifications.

b. Responsibility. The wetland delineation is the responsibility of the applicant. The Administrator shall verify the accuracy of the boundary delineation. This review period may be extended when excessively dry conditions prohibit the confirmation of the wetland delineation. If the delineation is found to be in question, the administrator will notify the applicant within thirty working days of receiving the delineation report, citing evidence (for example soil samples) that demonstrates where the delineation is believed to be in error. The applicant then may either revise the delineation and submit another report or administratively appeal. The City of North Bonneville may consult with agencies with expertise and jurisdiction over the critical areas during the review to assist with identification, analysis, and accuracy of critical area delineations.

3. Regulated Activities. For any proposed regulated activity, a critical area report may be required to support the requested activity.

   a. The following activities are regulated if they occur in a regulated wetland or its buffer:

      i. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind;

      ii. The dumping of, discharging of, or filling with any material;

      iii. The draining, flooding, or disturbing of the water level or water table;

      iv. The placing of obstructions;

      v. The construction, reconstruction, demolition, or expansion of any structure;

      vi. The destruction or alteration of wetland vegetation through clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a regulated wetland;

      vii. Class IV General Forest Practices under the authority of the 1992 Washington State Forest Practices Act Rules and Regulations, WAC 222-12-030, or as thereafter amended;

      viii. Activities that result in:

         A. A significant change of water temperature,

         B. A significant change of physical or chemical characteristics of the sources of water to the wetland,

         C. A significant change in the timing, frequency,

         D. depth, or duration of water entering or within the wetland,

         E. The introduction of pollutants;

   b. Subdivisions. The subdivision and/or short subdivision of land where wetlands and/or associated buffers are present are subject to the following:

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

      ii. Land that is located partially within a wetland and/or wetland buffer may be subdivided provided that an accessible and contiguous portion of each new lot is:

         A. Located outside of the wetland and buffer; and

         B. Meets the minimum lot size requirements of the City of North Bonneville zoning code.

4. Exempted Wetlands. Wetlands that meet the following criteria are not subject to the avoidance or minimization requirements of the mitigation NBCAO

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21.10.070.II.A in accordance with the following provisions, and they may be filled if the impacts are fully mitigated based on the remaining actions in NBCAO 21.10

a. All Category IV wetlands that are less than 4000 square feet where it has been shown by the applicant that they are not associated with a riparian areas or their buffers, are not associated with shorelines of the state or their associated buffers, are not part of a wetland mosaic, do not score six or more points for habitat function based on the Washington State Wetland Rating System for Western Washington: 2014 Update Version 2 (Ecology Publication [#23-06-009]), or as revised and approved by Ecology) and do not contain a Priority Habitat or Priority Species identified by the Washington Department of Fish and Wildlife and do not contain state or federally listed species or their critical habitat or species of local importance identified in the City of North Bonneville code.

b. Wetlands less than one thousand square feet that meet the above criteria are exempt from the buffer provisions contained in this chapter.

5. Wetland buffers. Wetland buffers are vegetated areas directly adjacent to wetlands, which can reduce the impacts to wetlands from adjacent land uses and provide habitat for terrestrial or aquatic species that require terrestrial habitats. Wetland buffer widths shall be determined by the planning official in accordance with the standards below:

a. Buffer Requirements. The buffer tables have been established in accordance with the best available science. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the Washington State Wetland Rating System for Western Washington: 2014 Update Version 2 (Ecology Publication [#23-06-009], or as revised).

b. All buffers shall be measured perpendicularly outward from the delineated wetland boundary. The required buffer widths in Table 21.10.070-1 assume that the buffer is vegetated with a native plant community appropriate for the ecoregion and minimization measures in Table 21.10.XXX are used to reduce the level of impact from adjacent land uses (whether proposed or existing). If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer width should be increased.

c. All buffers shall be measured horizontally outward from the delineated wetland boundary.

d. Buffer widths are established by comparing the wetland rating category and the intensity of land uses proposed on development sites per Table 21.10.070-1, 21.10.070-2, 21.10.070-3 and 21.10.070-4. For Category IV wetlands, the required water quality buffers, per Table 21.10.070-1, are adequate to protect habitat functions.

e. Functionally Isolated Buffer Areas. Areas which are functionally separated from a wetland and do not protect the wetland from adverse impacts shall be treated as follows:

(1) Pre-existing roads, structures, or vertical separation shall be excluded from buffers otherwise required by this chapter;

(2) Distinct portions of wetlands with reduced habitat functions that are components of wetlands with an overall habitat rating score greater than five (5) points shall not be subject to the habitat function buffers designated in Table 21.10.070-2 and Table 21.10.070-3 if the area of reduced habitat function is at least one (1) acre in size and does not meet any WDFW priority habitat or species criteria.

6. Buffer Reduction. Developments that produce the listed disturbances may request a buffer reduction from the base buffer widths in Table 21.10.070-1. Applicants are required to address the disturbance through the use of applicable minimization measures. Table 21.10.070.XXX is not a complete list of measures, nor is every example measure required. Though not every measure is required, all effort should be made to implement as many measures as possible. The Administrator shall determine, in coordination with the applicant, which measures are applicable and practicable.

7. Increased Wetland Buffer Width. Buffer widths shall be increased on a case-by-case basis as determined by the Administrator when a wider buffer is necessary to protect wetland functions and values. This determination shall be supported by appropriate documentation showing that it is reasonably related to the protection of the functions and values of the wetland. The documentation shall include but not be limited to the following criteria:

   a. The wetland is used by a state or federally listed plant or animal species. These species would be those listed under WAC 220-610-010, 50 CFR 17.11, 50 CFR 17.12, or other state or federal regulations.

   b. The wetland has critical habitat; or a priority area for a priority species as defined by WDFW; or Wetlands of High Conservation Value as defined by the Washington Department of Natural Resources' Natural Heritage Program.

   c. The adjacent land is susceptible to severe erosion, and erosion-control measures will not effectively prevent adverse wetland impacts.

   d. The adjacent land has minimal vegetative cover.

   e. The land has slopes greater than thirty percent.

8. Buffer averaging to improve wetland protection may be permitted when all of the following conditions are met:

   a. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a dual-rated wetland with a Category I

area adjacent to a lower-rated area.

b. The buffer is increased adjacent to the higher-functioning area of habitat or more sensitive portion of the wetland and decreased adjacent to the lower-functioning or less-sensitive portion as demonstrated by a critical area report from a qualified wetland professional.

c. The total area of the buffer after averaging is equal to the area required without averaging.

d. The buffer at its narrowest point is never less than either seventy-five percent of the required width or seventy-five feet for Category I and II, fifty feet for Category III, and twenty-five feet for Category IV, whichever is greater.

9. Averaging to allow reasonable use of a parcel may be permitted when all of the following are met:

a. No feasible alternatives to the site design could be accomplished without buffer averaging.

b. The averaged buffer will not result in degradation of the wetland's functions and values as demonstrated by a critical area report from a qualified wetland professional.

c. The total buffer area after averaging is equal to the area required without averaging.

d. The buffer at its narrowest point is never less than either seventy-five percent of the required width or seventy-five feet for Category I and II, fifty feet for Category III and twenty-five feet for Category IV, whichever is greater.

10. Allowed Buffer Uses. The following uses may be allowed within a wetland buffer in accordance with the review procedures of this Chapter, provided they are not prohibited by any other applicable law, and they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:

a. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.

b. Passive recreation facilities designed in accordance with an approved critical area report, including walkways and trails, provided that they have no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer twenty-five percent of the wetland buffer area, and located to avoid removal of significant vegetation. They should be limited to pervious surfaces no more than five feet in width and designed for pedestrian use only. Raised boardwalks utilizing non-treated pilings may be acceptable, and wildlife-viewing structures.

c. Educational and scientific research activities.

d. Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way, provided that the maintenance or repair does not increase the footprint or use of the facility or right-of-way.

e. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.

f. Drilling for utilities/utility corridors under a buffer, with entrance/exit portals located completely outside of the wetland buffer boundary, provided that the drilling does not alter the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column would be disturbed.

g. Enhancement of a wetland buffer through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds should be handled and disposed of according to a noxious weed control plan appropriate to that species. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.

h. Repair and maintenance of legally established non-conforming uses or structures, provided they do not increase the degree of nonconformity.

i. Functionally Disconnected Buffer Area. Buffers may exclude areas that are functionally and effectively disconnected from the wetland by an existing public or private road or historically preexisting structure, as determined by the administrator. Functionally and effectively disconnected means that the road or other significant development blocks the protective measures provided by a buffer. Significant developments shall include built public infrastructure such as roads and railroads, and private developments such as homes or commercial structures. The director shall evaluate whether the interruption will affect the entirety of the buffer. Individual structures may not fully interrupt buffer function. In such cases, the allowable buffer exclusion should be limited in scope to just the portion of the buffer that is affected. Where questions exist regarding whether a development functionally disconnects the buffer, or the extent of that impact, the administrator may require a critical area report to analyze and document the buffer functionality.

j. Signs and Fencing:

i. Temporary markers. The outer perimeter of the wetland buffer and the clearing limits identified by an approved permit or authorization shall be marked in the field with temporary high-visibility fencing in such a way as to ensure that no unauthorized intrusion will occur. The marking is subject to inspection by the Administrator prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.

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

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

"Protected Wetland Area
Do Not Disturb
Contact The City of North Bonneville
Regarding Uses, Restrictions,
and Opportunities for Stewardship"

B. The provisions of subsection i may be modified as necessary to assure protection of sensitive features or wildlife.

iii. Fencing

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

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

k. Buffer Maintenance. Except as otherwise specified or allowed in accordance with this chapter, wetland buffers shall be retained in an undisturbed or enhanced condition. In the case of compensatory mitigation sites, removal of invasive, non-native weeds is required for the duration of the mitigation

bond (NBCAO 21.10.060.VI.B).

l. Impacts to Buffers. Requirements for the compensation for impacts to buffers are outlined in NBCAO 21.10 070.III.A.15 of this chapter.

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

Table 21.10.070-1: Buffers Required to Protect Water Quality Functions			
Wetland Rating	Low Intensity Use	Moderate Intensity Use	High Intensity Use
Category I	50 ft.	75 ft.	100 ft.
Category II	50 ft.	75 ft.	100 ft.
Category III	40 ft.	60 ft.	80 ft.
Category IV	25 ft.	40 ft.	50 ft.

Table 21.10.070-2. 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
3-4 points	See Table 21.10.070-1	See Table 21.10.070-1	See Table 21.10.070-1
5	70 ft.	105 ft.	140 ft.
6	90	135	180
7	110	165	220
8	130	195	260
9	150	225	300

Table 21.10.070-3. 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
3-4 points	See Table 21.10.070-1	See Table 21.10.070-1	See Table 21.10.070-1
5	60 ft.	90 ft.	120 ft.
6	65	100	135
7	75	110	150

Table 21.10.070-4: Land Use Intensity[1] Matrix					
Parks and Recreation	**Streets and Roads**	**Stormwater Facilities**	**Utilities**	**Commercial /Industrial**	**Residential**

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.*

Table 21.10.XXX Wetland buffer width requirements, in feet, if Table 2 is implemented and a habitat corridor is provided.				
Category of wetland	Habitat score 3—5 points (corridor not required)	Habitat score 6—7 points	Habitat score 8—9 points	Buffer width based on special characteristics
Category I or II: Based on rating of wetland functions (and not listed below)	75	110	225	NA
Category I: Bogs and Wetlands of High Conservation Value	NA	NA	225	190
Category I: Forested	75	110	225	NA
Category III: All types	60	110	225	NA
Category IV: All types	40	40	40	NA

Table 21.10.XXX Impact Minimization Measures		
Examples of disturbance	Activities and uses that cause disturbances	Examples of measures to minimize impacts
Lights	Parking lots Commercial/Industrial Residential Recreation (e.g., athletic fields) Agricultural buildings	Direct lights away from wetland Only use lighting where necessary for public safety and keep lights off when not needed Use motion-activated lights Use full cut-off filters to cover light bulbs and direct light only where needed Limit use of blue-white colored lights in favor of red-amber hues Use lower-intensity LED lighting Dim light to the lowest acceptable intensity
Noise	Commercial Industrial Recreation (e.g., athletic fields, bleachers, etc.) Residential Agriculture	Locate activity that generates noise away from wetland Construct a fence to reduce noise impacts on adjacent wetland and buffer Plant a strip of dense shrub vegetation adjacent to wetland buffer
Toxic runoff	Parking lots Roads Commercial/industrial Residential areas Application of pesticides Landscaping Agriculture	Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered Establish covenants limiting use of pesticides within 150 ft. of wetland Apply integrated pest management (These examples are not necessarily adequate for minimizing toxic runoff if threatened or endangered species are

		present at the site.)
Stormwater runoff	Parking lots Roads Residential areas Commercial/industrial Recreation Landscaping/lawns Other impermeable surfaces, compacted soil, etc.	Retrofit stormwater detention and treatment for roads and existing adjacent development Prevent channelized or sheet flow from lawns that directly enters the buffer Infiltrate or treat, detain, and disperse new runoff from impervious surfaces and lawns
Pets and human disturbance	Residential areas Recreation	Use privacy fencing Plant dense native vegetation to delineate buffer edge and to discourage disturbance Place wetland and its buffer in a separate tract Place signs around the wetland buffer every 50—200 ft., and for subdivisions place signs at the back of each residential lot When platting new subdivisions, locate greenbelts, stormwater facilities, and other lower-intensity uses adjacent to wetland buffers
Dust	Tilled fields Roads	Use best management practices to control dust

Table 21.10.XXX
Wetland buffer width requirements, in feet, for applicants NOT providing a habitat corridor or implementing measures in Table 21.10.XXX

Category of wetland	Habitat score 3—5 points	Habitat score 6—7 points	Habitat score 8—9 points	Buffer width based on special characteristics
Category I & II: Based on rating of wetland functions (and not listed below)	100	150	300	NA
Category I: Bogs and Wetlands of High Conservation Value	NA	NA	300	250
Category I: Forested	100	150	300	NA
Category III: All types	80	150	300	NA
Category IV	NA	NA	NA	50

11. Critical Area Report for Wetlands:

    a. If the administrator determines that the site of a proposed development includes, is likely to include, or is adjacent to a wetland or w etland buffer, a

wetland report, prepared by a qualified professional, shall be required. The expense of preparing the wetland report shall be borne by the applicant.

b. Minimum Standards for Wetland Reports. The written report and the accompanying plan sheets shall contain the following information, at a minimum:

i. The written report shall include at a minimum:

A. The name and contact information of the applicant; the name, qualifications, and contact information of the primary author(s) of the report; a description of the proposal; identification of all the local, state, and/or federal wetland-related permit(s) required for the project; and a vicinity map for the project.

B. A statement specifying the accuracy of the report and all assumptions made and relied upon.

C. Documentation of any fieldwork performed on the site, including field data sheets for delineations, rating system forms, baseline hydrologic data, etc.

D. A description of the methodologies used to conduct the wetland delineations, wetland ratings, and impact analyses, including references.

E. Identification and characterization of all critical areas, water bodies, shorelines, floodplains, and buffers on or adjacent to the proposed project area. For areas off the project site, estimate conditions within three hundred feet of the project boundaries using all reliable available information.

F. For each wetland identified on site and within three hundred feet of the project boundary, provide the completed wetland rating, per NBCAO 21.10.070.II.A.2 of this Chapter; required buffers; hydrogeomorphic classification; wetland area based on the field delineation (area for on-site portion and estimate entire wetland area including off-site portions); Cowardin classifications; habitat elements; soil conditions based on site assessment and/or soil survey information; and to the extent possible, hydrologic information such as location and condition of inlets/outlets, estimated water depths within the wetland, and estimated hydroperiod patterns based on visual cues (e.g., algal mats, drift lines, flood debris, etc.). Provide area estimates, classifications, and ratings based on entire wetland units, not only the portion present on the proposed project site.

G. A description of the proposed actions, including an estimation of area of impacts to wetlands and buffers based on the field delineation, and an analysis of site development alternatives, including a no-development alternative.

H. An assessment of the probable cumulative impacts to the wetlands and

buffers resulting from the proposed development, considering past development and potential future development.

I. A description of how mitigation sequencing has been followed, pursuant to section NBCAO 21.10.060.III.

J. An evaluation of the functions of the wetland and its buffer, including references for the method used and data sheets.

K. A discussion of the potential impacts to the wetland(s) associated with any anticipated hydroperiod alterations from the project.

ii. The site plan sheet(s) shall include, at a minimum:

A. Maps (to scale) depicting delineated and mapped wetlands and required buffers on site, including buffers for off-site wetlands that extend onto the project site; the development proposal; other critical areas and their buffers; grading and clearing limits; and areas of proposed impacts to wetlands and/or buffers (include square footage or acreage).

B. A depiction of the proposed stormwater management facilities and outlets (to scale) for the development, including estimated areas of intrusion into wetland buffers.

12. Critical Area Report-Additional Requirements for Wetlands

A critical areas report for wetlands shall be prepared by a qualified professional as defined herein. The Critical Areas Report shall contain an analysis of the wetlands including the following site- and proposal-related information:

a. A written assessment, data sheets and accompanying maps of any wetlands or buffers on the site including the following information:

i. Hydrogeomorphic (HGM) classification;

ii. Wetland category;

iii. Wetland delineation and required buffers including the following:

(a) Methodology. The location of a wetland and its boundary shall be determined through the performance of a field investigation utilizing the methodology contained in the approved federal manual and applicable regional supplements. Discussion of methods and results with special emphasis on technique used from the approved federal manual and applicable regional supplements.

(b) Information Requirements. Wetland boundaries shall be staked and flagged in the field and a delineation report shall be submitted to the department. The report shall include the following information:

(i) USGS quadrangle map with site clearly defined;

(ii) Topographic map of area (2 foot contours at a minimum scale of

1:2,400);

(iii) National wetland inventory map showing site;

(iv) Natural Resource Conservation Service (NRCS) soils map showing site;

(v) Site map, at a scale no smaller than one (1) inch equals one hundred (100) feet (1" = 100', a scaling ratio of 1:1,200), if practical, showing the following information:

(a) Wetland boundaries,

(b) Sample sites and sample transects,

(c) Boundaries of forested areas,

(d) Boundaries of wetland classes if multiple classes exist;

(vi) All completed field data sheets per the approved federal manual and applicable regional supplements, numbered to correspond to each sample site.

(c) Existing wetland acreage;

(d) Vegetative, faunal, and hydrologic characteristics;

(e) Soil types and substrate conditions;

(f) Topographic elevations, at 1' contours; and

(g) A discussion of the water sources supplying the wetland and documentation of hydrologic regime.

(h) Functional evaluation for the wetland and buffer using WDOE's most current approved method and including the reference of the method and all data sheets.

(i) Proposed mitigation, if needed, including a discussion of alternatives and trade-offs inherent in the various alternatives, a written description and accompanying maps of the mitigation area, including the following information:

(i) A discussion of measures, including avoidance, minimization and mitigation, proposed to preserve existing wetlands and restore any wetlands that were degraded prior to the current proposed land use activity.

(ii) Existing and proposed wetland acreage;

(iii) Existing and proposed vegetative and faunal conditions;

(iv) Surface and subsurface hydrological conditions of existing and proposed wetlands and hydrologically associated wetlands including an analysis of existing hydrologic regime and proposed hydrologic regime for enhanced, created, or restored mitigation areas;

(v) Relationship to lakes, streams and rivers in the watershed;

(vi) Soil type and substrate conditions;

(vii) Topographic elevations, at 1' contours; and

(viii) Required wetland buffers including existing and proposed vegetation.

(ix) Identification of the wetland's contributing area.

(x) Required wetland buffers; and

(xi) Property ownership.

(j) A discussion of ongoing management practices that will protect wetlands after the project site has been developed; including proposed monitoring and maintenance programs.

(k) When deemed appropriate, the Planning Advisor may also require the critical area report to include an evaluation by WDOE or an independent qualified expert regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or programs, and to include any recommendations as appropriate.

13. Development Standards in Wetlands and Buffers.

a. Authorized Activities in Wetlands. Activities and uses shall be prohibited from wetlands, except as provided for in this chapter. Wetland permit applications shall be based upon a mitigation plan and shall satisfy the following general requirements:

(1) The proposed activity shall not cause significant degradation of wetland functions;

(2) The proposed activity shall comply with all state, local and federal laws, including those related to sediment control, pollution control, floodplain restrictions, stormwater management, and on-site wastewater disposal.

(3) The proposed activity shall demonstrate avoidance and minimization of impacts to wetlands and wetland functions.

(a) Category III and IV wetlands between 1,000 square feet and 4,000 square feet may be exempted from demonstrating avoidance if the applicant shows that all of the following criteria have been met:

(i) Wetland is not associated with a riparian corridor; and

(ii) Wetland is not part of a wetland mosaic; and

(iii) Wetland does not score 5 points or greater for habitat in the 2014 Western Washington Rating System; and,

(iv) Wetland does not contain habitat identified as essential for local populations of priority species identified by Washington Department

of Fish and Wildlife.

Impacts allowed under this provision to these wetlands will be fully mitigated as required in mitigation section.

(b) All Category I and II Wetlands between 1,000 square feet and 4,000 square feet should be evaluated with full mitigation sequencing and buffer establishment. Any approved impacts should be adequately compensated by mitigation.

(c) Wetlands larger than 4,000 square feet will be evaluated using standard procedures for wetland review.

(4) If the proposed activity impacts wetlands or wetland functions mitigation as provided in the chapter will be required.

(5) Exempted Wetlands. This chapter shall not apply to the following wetlands:

(a) Wetlands less than 1,000 square feet where it has been demonstrated by the applicant that they are not associated with a riparian corridor, they are not part of a wetland mosaic and do not contain habitat identified as essential for local populations of priority species identified by Washington Department of Fish and Wildlife.

(b) Riparian. Wetlands less than five feet wide above the ordinary high water mark along streams and lakes.

(c) Stormwater Facilities. Stormwater facilities are only allowed in buffers of Category III and IV wetlands with low habitat function (less than five (5) points on the habitat section of the rating system form); provided, the following conditions are demonstrated by the applicant:

(i) Facilities shall be built on the outer twenty-five (25) percent of the buffer

(ii) Facilities do not degrade the existing buffer function; and are designed to blend with the natural landscape; and

(iii) Stormwater facilities do not alter the hydroperiod of the wetland or adversely affect water quality; and

(iv) Stormwater facilities are limited to dispersion outfalls, bioswales, or other new technologies approved by WDOE.

b. Authorized Activities in Wetland Buffers. The following additional standards apply for regulated activities in a wetland buffer:

(1) Buffer averaging. Averaging buffers is not allowed in conjunction with any of the other provisions for reductions in buffer width. The City shall have the authority to average buffer widths on a case-by-case basis, where a qualified wetlands professional demonstrates, as part of a critical area report, that all of the following criteria are met:

(a) The total area contained in the buffer after averaging is no less than that contained within the buffer prior to averaging;

(b) Decreases in width are generally located where wetland functions may be less sensitive to adjacent land uses and increases are generally located where wetland functions may be more sensitive to adjacent land uses, to achieve no net loss or a net gain in functions; and

(c) The averaged buffer, at its narrowest point, shall not result in a width less than twenty-five (25) percent of the required width, provided that minimum buffer widths shall never be less than twenty-five (25) feet.

(d) There is no feasible alternative to the site design that could be accomplished without buffer averaging.

(2) Road and Utility Crossings. Crossing buffers with new roads and utilities is allowed provided all the following conditions are met:

(a) Buffer functions, as they pertain to protection of the adjacent wetland and its functions, are replaced and mitigated as specified in 21.10.070(II)(A)(6); and

(b) Impacts to the buffer and wetland are minimized.

(3) Other Activities in a Buffer. Regulated activities not involving stormwater management, road and utility crossings, or a buffer reduction are allowed in the buffer if all the following conditions are met:

(a) The activity is temporary and will cease or be completed within three (3) months of the date the activity begins;

(b) The activity will not result in a permanent structure in or under the buffer;

(c) The activity will not result in a reduction of buffer acreage or function;

(d) The activity will not result in a reduction of wetland acreage or function.

14. Wetland and wetland buffer mitigation.

a. Location of Wetland Mitigation. Wetland mitigation for unavoidable impacts shall be located using the following prioritization:

(1) Within the same watershed. Mitigation actions shall be conducted within the same watershed as the project site and preferable within the same stream reach.

(a) On -site mitigation is preferred and should be based on the natural capacity of the site to mitigate for impacts. If on-site mitigation is not feasible or on-site opportunities do not have a high likelihood of success then off-site mitigation within the same watershed shall be considered.

(b) Off -site mitigation shall demonstrate that mitigation will result in greater benefits or functions, or restore or enhance limited or important

functions to the health of the watershed. Off-site mitigation shall be in the same watershed unless:

(i) Watershed goals for water quality, flood or conveyance, habitat or other wetland functions have been established and strongly justify location of mitigation at another site; or

(ii) Credits from a certified wetland mitigation bank are used as mitigation and the use of credits is consistent with the terms of the bank's certification.

(2) In-kind. Locate or create wetlands with similar landscape position and the same hydro-geomorphic (HGM) classification based on a reference to a naturally occurring wetland system; and

(3) Out-of-kind. Mitigate in a different landscape position and/or HGM classification based on a reference to a naturally occurring wetland system.

b. Types of Wetland Mitigation. The various types of wetland mitigation allowed are listed below in the general order of preference.

(1) Restoration: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former or degraded wetland. Restoration results in a gain in wetland acres and/or functions. Activities could include removing fill material, plugging ditches, or breaking drain tiles. There are two types of restoration:

(a) Re-establishment— Re-establishment results in a gain in wetland acres and functions. Activities could include removing fill material, plugging ditches or breaking drain tiles.

(b) Rehabilitation— Rehabilitation results in a gain in wetland functions but not in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain, restoring tidal influence to a wetland or breaking drain tiles and plugging drainage ditches.

(2) Creation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of developing a wetland on an upland or deepwater site where a wetland did not previously exist. Establishment results in a gain in wetland acres. Activities typically involve excavation of upland soils to elevations that will produce a wetland hydro-period, create hydric soils, and support the growth of hydrophytic plant species.

(3) Enhancement: The manipulation of the physical, chemical, or biological characteristics of a wetland site to heighten, intensify, or improve the specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat.

Enhancement results in a change in some wetland functions and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres. Activities typically consist of planting vegetation, controlling non-native or invasive species, modifying site elevations or the proportion of open water to influence hydro-periods, or some combination of these activities.

(4) Preservation: Removing a threat to, or preventing the decline of, wetland conditions by an action in or near a wetland. This includes the purchase of land or easements repairing water control structures or fences, or structural protection such as repairing a barrier island. This term also includes activities commonly associated with the term, preservation. Preservation does not result in a gain of wetland acres, but may result in improved wetland functions.

c. Effect of mitigation. If wetland mitigation occurs such that the rating of the wetland changes, the requirements for the category of the wetland after mitigation shall apply.

d. Standard Wetland Mitigation Ratios. The mitigation ratios in Table 21.10.070-5 apply for each of the mitigation types described in this chapter:

(1) Preservation. The Planning Advisor has the authority to approve preservation of existing wetlands as wetland mitigation under the following conditions:

(a) The wetland area being preserved is a Category I or II wetland or is within a WDFW Priority Habitat or Species area;

(b) The preservation area is at least one (1) acre in size;

(c) The preservation area is not an existing or proposed wetland mitigation site; and

(d) The preservation/mitigation ratio's in Table 21.10.070-6 apply:

e. Buffer Mitigation. Regulated activities in buffers shall be required to provide mitigation as follows:

(1) Mitigation shall be provided for buffer averaging as stipulated in 21.10.070(II)(A)(5)(b)(1).

(2) Direct impacts to buffers will be mitigated at a 1:1 mitigation ratio provided the applicant demonstrates that the mitigation provides buffer functions at an equal or greater level than the pre-project buffer.

f. The Planning Advisor has the authority to reduce wetland mitigation ratios under the following circumstances:

(1) Documentation by a qualified wetland specialist demonstrates that the proposed mitigation actions have a very high likelihood of success based on prior experience;

(2) Documentation by a qualified wetland specialist demonstrates that the proposed actions for compensation will provide functions and values that are significantly greater than the wetland being affected;

(3) The proposed actions for compensation are conducted in advance of the impact and are shown to be successful.

g. Wetland Mitigation Banking. Wetland mitigation banking developed per WDOE requirements and approved by WDOE may be used for wetland mitigation. A wetland permit shall be obtained prior to any mitigation banking. If a wetland permit is not obtained prior to mitigation bank construction, mitigation credit shall not be awarded. The mitigation credits shall be determined as follows:

(1) Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:

(a) The bank is certified under Chapter 173-700 WAC;

(b) The Planning Advisor determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and

(c) The proposed use of credits is consistent with the terms and conditions of the bank's certification.

(2) Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.

(3) Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, the service area of the bank may include portions of more than one adjacent drainage basin for specific wetland functions.

15. Compensatory Mitigation:

a. Mitigation Sequencing. Before being authorized to impact any wetland or its buffer, an applicant shall demonstrate that they have implemented mitigation in the following order:

i. Avoid impacts altogether by not taking a certain action or parts of an action.

ii. Minimize impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts.

iii. Rectify impacts by repairing, rehabilitating, or restoring the affected environment.

iv. Reduce or eliminate impacts over time by preservation and maintenance operations.

v. Compensate for impacts by replacing, enhancing, or providing substitute resources or environments.

vi. Monitor required compensation and take remedial or corrective measures when necessary.

b. Requirements for Compensatory Mitigation:

i. Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized and shall achieve no net loss of wetland function. Compensatory mitigation plans shall be consistent with this chapter and Mitigation in Washington State-Part 2: Developing Mitigation Plans—Version 1 (Ecology Publication #06-06-011b, Olympia, WA, March 2006, or as revised), and Selecting Wetland Mitigation Sites Using a Watershed Approach Western Washington (Ecology Publication #09-06-32).

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ii. Mitigation ratios, if used, shall be consistent with NBCAO 21.10.070.II.A.14.d.

iii. Mitigation requirements may be determined using the Credit-Debit Method described in Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington (Ecology Publication #10-06-011) or as revised consistent with NBCAO 21.10.070.II.A.14.g.

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iv. Plantings used in mitigation actions shall be native species appropriate to the ecoregion.

v. The following areas within a proposed compensation site shall not contribute to satisfying the requirements for compensatory mitigation:

A. Easements for utility corridors, maintained stormwater facilities, and rights-of-way.

B. Driveways.

C. Roads.

D. Any paved or graveled areas intended to convey vehicle or foot traffic.

vi. Buffers on Wetland Mitigation Sites. All wetland mitigation sites shall have buffers consistent with the buffer requirements of this chapter.

c. Compensating for Lost or Affected Functions. Compensatory mitigation shall address the functions affected by the proposed project, with an intention to achieve functional equivalency or improvement of functions. The goal shall be for the compensatory mitigation to provide similar wetland functions as those lost, except when either:

i. The lost wetland provides minimal functions, and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions shown to be limited within a watershed through an existing watershed plan or a local or regional study that characterizes watershed processes; or

ii. Out-of-kind replacement of wetland type or functions will best meet watershed goals formally identified by a watershed plan, such as

replacement of historically diminished wetland types.

d. Approaches to Compensatory Mitigation. Mitigation for lost or diminished wetland and buffer functions shall rely on the approaches listed below:

i. Wetland Mitigation Banks. Credits from a wetland mitigation bank certified under Chapter 173-700 WAC may be used to compensate for impacts located within the service area specified in the mitigation bank instrument if all the following are met:

A. The administrator determines that it would provide appropriate compensation for the proposed impacts; and

B. The proposed use of credits is consistent with the terms and conditions of the mitigation bank instrument.

C. Mitigation ratios are consistent with ratios specified in the mitigation bank instrument.

ii. Permittee-responsible, concurrent mitigation. Concurrent mitigation is a form of permittee-responsible mitigation implemented at the same time permitted impacts are occurring. The permittee is responsible for implementation and success of the compensation. Concurrent mitigation may occur at the site of the permitted impacts or at an off-site location, usually within the same watershed. Permittee-responsible, concurrent mitigation shall be used only if the applicant's qualified wetland professional demonstrates to the administrator's satisfaction that the proposed approach is ecologically preferable to use of a bank, consistent with the criteria in this section.

iii. Permittee-responsible, advance mitigation. Advance mitigation is a form of permittee responsible mitigation implemented before a permitted impact takes place. It is designed to compensate for impacts expected to occur in the future. The applicant proposing the advance mitigation is the only one who can use the credits generated. Credits cannot be sold or transferred to another applicant. Advance mitigation proposals should be developed in accordance with state and federal rules and guidance on advance mitigation (Interagency Regulatory Guide: Advance Permittee-Responsible Mitigation, Ecology Publication #12-06-015, December 2012, and Chapter 4.2 of Wetland Mitigation in Washington State-Part 1: Policies and Guidance—Version 2, Ecology Publication #21-06-003, April 2021, or as revised).

e. Methods of Compensatory Mitigation. Mitigation for wetland and buffer impacts shall rely on a method listed below in order of preference. A lower-preference form of mitigation shall be used only if the applicant's qualified wetland professional demonstrates to the administrator's satisfaction that all higher-ranked types of mitigation are not viable, consistent with the criteria in this section.

i. Restoration: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions and environmental processes to a former or degraded wetland. Restoration is divided into two categories:

   A. Re-establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions and environmental processes to a former wetland. Re-establishment results in rebuilding a former wetland and results in a gain in wetland area and functions. Example activities could include removing fill, plugging ditches, or breaking drain tiles to restore a wetland hydroperiod, which in turn will lead to restoring wetland biotic communities and environmental processes.

   B. Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions and environmental processes to a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland area. [In other words, the area already meets wetland criteria, but hydrological processes have been altered. Rehabilitation involves restoring historic hydrologic processes.] Example activities could involve breaching a dike to reconnect wetlands to a floodplain or return tidal influence to a wetland.

ii. Establishment (Creation): The manipulation of the physical, chemical, or biological characteristics of a site to develop a wetland on an upland where a wetland did not previously exist at an upland site. Establishment results in a gain in wetland area and functions. An example activity could involve excavation of upland soils to elevations that will produce a wetland hydroperiod and hydric soils by intercepting groundwater, and in turn supports the growth of hydrophytic plant species.

   A. If a site is not available for wetland restoration to compensate for expected wetland and/or buffer impacts, the administrator may authorize establishment of a wetland and buffer upon demonstration by the applicant's qualified wetland professional that:

      1. The hydrology and soil conditions at the proposed mitigation site are conducive for sustaining the proposed wetland and that establishment of a wetland at the site will not likely cause hydrologic problems elsewhere;

      2. Adjacent land uses and site conditions do not jeopardize the viability of the proposed wetland and buffer (e.g., due to the presence of invasive plants or noxious weeds, stormwater runoff, noise, light, or other impacts); and

3. The proposed wetland and buffer will eventually be self-sustaining with little or no long-term maintenance.

iii. Preservation (Protection/Maintenance). The removal of a threat to, or preventing the decline of, wetlands by an action in or near those wetlands. This term includes activities commonly associated with the protection and maintenance of wetlands through the implementation of appropriate legal and physical mechanisms such as recording conservation easements and providing structural protection like fences and signs. Preservation does not result in a gain of aquatic resource area or functions but may result in a gain in functions over the long term. Preservation of a wetland and associated buffer can be used only if:

A. The administrator determines that the proposed preservation is the best mitigation option;

B. The proposed preservation site is under threat of undesirable ecological change due to permitted, planned, or likely actions that will not be adequately mitigated under existing regulations;

C. The area proposed for preservation is of high quality or critical for the health and ecological sustainability of the watershed or sub-basin. Some of the following features may be indicative of high-quality sites:

1. Category I or II wetland rating (using the wetland rating system).

2. Rare or irreplaceable wetland type (e.g., peatlands, mature forested wetland, estuaries, vernal pools, alkali wetlands) or aquatic habitat that is rare or a limited resource in the area.

3. The presence of habitat for threatened or endangered species (state, federal, or both).

4. Provides biological and/or hydrological connectivity to other habitats.

5. Priority sites identified in an adopted watershed plan.

D. Permanent preservation of the wetland and buffer shall be provided through a legal mechanism such as a conservation easement or tract held by an appropriate natural land resource manager/land trust.

E. The administrator may approve another legal and administrative mechanism in lieu of a conservation easement if it is determined to be adequate to protect the site.

iv. Enhancement. The manipulation of the physical, chemical, or biological characteristics of a wetland to heighten, intensify, or improve specific function(s). Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement results in the gain of selected wetland function(s) but may also lead to a decline in other wetland function(s). Enhancement does not

result in a gain in aquatic resource area. Enhancement activities could include planting vegetation, controlling non-native or invasive species, and modifying site elevations to alter hydroperiods in existing wetlands. Applicants proposing to enhance wetlands or associated buffers shall demonstrate how the proposed enhancement will increase the wetland's/buffer's functions, how this increase in function will adequately compensate for the impacts, and how existing wetland functions at the mitigation site will be protected.

v. Alternative Types of Mitigation/Resource Tradeoffs. The administrator may approve alternative mitigation proposals that are based on best available science, such as priority restoration plans that achieve restoration goals identified in the SMP. Alternative mitigation proposals shall provide an equivalent or better level of ecological functions and values than would be provided by standard mitigation approaches. Alternative mitigation approaches shall comply with all reporting, monitoring, and performance measures of this section including adherence to mitigation sequencing. The City of North Bonneville may consult with agencies with expertise and jurisdiction over the critical areas during the review to assist with analysis and identification of appropriate performance measures that adequately safeguard critical areas.

A. The administrator will consider the following for approval of an alternative mitigation proposal:

1. Clear identification of how an alternative approach will achieve equal or better ecological benefit.

2. The proposal uses a watershed approach consistent with Selecting Wetland Mitigation Sites Using a Watershed Approach Western Washington (Ecology Publication #09-06-32, Olympia, WA, December 2009).

3. All impacts are identified, evaluated, and mitigated.

4. Methods to demonstrate ecological success are clear and measurable.

f. Location of Compensatory Mitigation. Permittee-responsible compensatory mitigation actions shall be conducted using a watershed approach and shall generally occur within the same sub-drainage basin. However, when the applicant can demonstrate that a mitigation site in a different sub-drainage basin is ecologically preferable, it should be used.

i. The following criteria will be evaluated when determining whether on-site or off-site mitigation is ecologically preferable. When considering the location of mitigation, preference should be given to using programmatic approaches, such as a mitigation bank.

ii. No reasonable opportunities exist on site or within the sub-drainage basin or

opportunities on site or within the sub-drainage basin do not have a high likelihood of success based on a determination of the capability of the site to compensate for the impacts. Considerations should include anticipated replacement ratios for wetland mitigation, buffer conditions and required widths, available water to maintain anticipated hydrogeomorphic class(es) of wetlands when restored, proposed flood storage capacity, and potential to mitigate riparian fish and wildlife impacts (such as connectivity);

iii. On-site mitigation would require elimination of high-quality upland habitat.

iv. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions compared to the altered wetland.

v. Off-site locations shall be in the same sub-drainage basin unless:

A. Watershed goals for water quality, flood storage or conveyance, habitat, or other wetland functions have been established by the City of North Bonneville and strongly justify locating mitigation at another site; or

B. Credits from a state-certified wetland mitigation bank are used as compensation, and the use of credits is consistent with the terms of the certified bank instrument;

vi. The design for the compensatory mitigation project needs to be appropriate for its position in the landscape. Therefore, compensatory mitigation should not result in the creation, restoration, or enhancement of an atypical wetland.

g. Timing of Compensatory Mitigation. It is preferred that compensatory mitigation projects be completed prior to activities that will impact wetlands. At the least, compensatory mitigation shall be completed immediately following wetland impacts and prior to use or occupancy of the action or development. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, and flora.

i. The administrator may authorize a one-time temporary delay in completing construction or installation of the compensatory mitigation when the applicant provides a written explanation from a qualified wetland professional as to the rationale for the delay. An appropriate rationale would include identification of the environmental conditions that could produce a high probability of failure or significant construction difficulties. For example, a project delay that creates conflicts with other regulatory requirements (fisheries, wildlife, stormwater, etc.) or installing plants should be delayed until the dormant season to ensure greater survival of installed materials. The delay shall not create or perpetuate hazardous conditions or environmental damage or degradation, and the delay shall not be injurious to the health, safety, or general welfare of the public. The request for the delay shall include a written justification that documents the environmental

constraints that preclude timely implementation of the compensatory mitigation plan. The justification will be verified by the City of North Bonneville who will issue a formal decision.

h. Wetland Mitigation Ratios.

i. Credit-Debit Method. To more fully protect functions and values, and as an alternative to the mitigation ratios found in the joint guidance Wetland Mitigation in Washington State Part 1 (Ecology Publication # 21-06-003, April 2021), the Administrator may allow mitigation based on the Credit-Debit Method developed by the Department of Ecology in Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington57.

j. Mitigation Plan. When a project involves wetland and/or buffer impacts, a mitigation plan prepared by a qualified professional shall be required, meeting the following minimum standards:

i. Wetland Critical Area Report. A critical area report for wetlands shall accompany or be included in the compensatory mitigation plan and include the minimum parameters described in NBCAO 21.10.070.III.A.11.b.i. Minimum Standards for Wetland Reports.

ii. Mitigation Plan and Plan Sheets. The report shall include a written plan and plan sheets that contain, at a minimum, the following elements.

A. The written report shall be prepared by a qualified professional and contain, at minimum:

1. The name and contact information of the applicant; the name, qualifications, and contact information of the primary author(s) of the compensatory mitigation plan; a description of the development proposal; a summary of the impacts and proposed compensation concept; identification of all the local, state, and federal wetland related permits required for the project; and a vicinity map for the project.

2. Description of how the development project has been designed to avoid, minimize, or reduce adverse impacts to wetlands.

3. Description of the existing wetland and buffer areas proposed to be altered. Include acreage or square footage, water regime, vegetation, soils, functions, landscape position, and surrounding land uses. Also describe impacts in terms of acreage by Cowardin classification, hydrogeomorphic classification, and wetland rating, based NBCAO 21.10.070.II.A.2.a, Wetland Rating Categories.

4. Description of the compensatory mitigation site, including location and rationale for selection. Include an assessment of existing conditions, including acreage or square footage of wetlands and uplands, water regime, sources of water, vegetation, soils, functions,

landscape position, and surrounding land uses. Estimate future conditions in this location if the compensation actions are not undertaken.

5. Surface and subsurface hydrologic conditions, including an analysis of existing and proposed hydrologic regimes for enhanced, established, or restored compensatory mitigation areas. Include illustrations of how data for existing hydrologic conditions were used to determine the estimates of future hydrologic conditions.

6. A description of the proposed actions for compensation of wetland and buffer areas affected by the project. Include overall goals of the proposed mitigation, including a description of the targeted functions, hydrogeomorphic classification, and expected categories of wetlands.

7. A description of the proposed mitigation construction activities and timing of activities.

8. Performance standards (measurable standards for years post installation) for wetland and buffer areas, a monitoring schedule, a maintenance schedule, and actions proposed by year.

9. A discussion of ongoing management practices that will protect wetlands after the development project has been implemented, including proposed monitoring and maintenance programs (for remaining wetlands and compensatory mitigation wetlands).

10. As required, a bond estimate for the entire compensatory mitigation project, including the following elements: site preparation, plant materials, construction materials, installation and oversight, maintenance at least twice per year for up to ten years, annual monitoring field work and reporting, contingency actions for a maximum of the total required number of years for monitoring, and removal of all nonnatural site implements (e.g., irrigation equipment, construction fencing, plant protectors, weed barrier fabric) at the end of the monitoring period.

B. The scaled plan sheets shall contain, at a minimum:

1. Mapped, ground-verified edges of the existing wetland and buffers, proposed areas of wetland and/or buffer impacts, and location of proposed wetland and/or buffer compensation actions.

2. Existing topography, in the zone of the proposed compensation actions if any grading activity is proposed in the compensation area(s). Also include existing cross sections of wetland areas on the development site that are proposed to be altered and of the proposed areas of wetland and buffer compensation.

3. Conditions expected from the proposed actions on site, including future hydrogeomorphic classes, vegetation community types by Cowardin class (wetland and upland), and future hydroperiods, or when applicable include a reference to these details within the mitigation plan.

4. Required wetland buffers for existing wetlands and proposed mitigation areas. Also identify any zones where buffers are proposed to be reduced or enlarged outside of the standards identified in this chapter.

5. A planting plan for the compensation area, including all species by proposed community type and hydroperiod, size and type of plant material to be installed, spacing of plants, typical clustering patterns, total number of each species by community type, and timing of installation or include a reference to these details within the mitigation plan.

k. Buffer Mitigation Ratios. Impacts to buffers shall be mitigated at a minimum 1:1 ratio. Compensatory buffer mitigation shall replace those buffer functions lost from development.

l. Protection of the Mitigation Site. A conservation covenant shall be recorded in a form approved by the city attorney as adequate to incorporate the other restrictions of this section and to give notice of the requirement to obtain a permit prior to engaging in regulated activities within a wetland area or its buffer.

m. Monitoring. All proposed mitigation (not including the purchase of mitigation bank credits) shall include provisions for annual monitoring and performance standards for a period of three years minimum, five years being standard, and ten years when the replacement of forested habitat, or as approved by the administrator for projects with minimal impacts. For example, temporary impacts to herbaceous cover that require reseeding grasses.

i. The mitigation plan shall include monitoring elements that ensure success for the wetland and buffer's values and functions. If the mitigation goals are not attained within the specified monitoring period, the applicant remains responsible for managing the mitigation project until the mitigation plan's goals are achieved.

16. Unauthorized Alterations and Enforcement

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

for violation of provisions of this chapter.

b. Requirement for Restoration Plan. All development work shall remain stopped until a restoration plan is prepared and approved by the administrator. Such a plan shall be prepared by a qualified professional using currently accepted scientific principles and shall describe how the actions proposed meet the minimum requirements described in NBCAO 21.10.070.III.A.11.b.i. The administrator may, at the applicant's or other responsible party's expense, seek expert advice in determining the adequacy of the plan. Inadequate plans shall be returned to the applicant or other responsible party for revision and re-submittal.

Table 21.10.070-5: Standard Wetland Mitigation Ratios

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

Table 21.10.070-6: 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 (3-4 points)	10:1	14:1	20:1	30:1

Table 21.10.070-6: 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
Moderate (5-7 points)	13:1	17:1	30:1	40:1
High (8-9 points)	16:1	20:1	40:1	50:1

B. Critical aquifer recharge areas.

1. Site analysis—required for the purpose of delineating the recharge areas on a scaled development plan and proving detailed information as developed by a qualified professional as defined herein.

2. Designation. Lands within the North Bonneville UGA meeting the classification criteria for aquifer recharge areas are hereby officially designated, pursuant to the mandate of RCW 36.70A.060 and 36.70A.170 as critical aquifer recharge areas (CARAs).

a. Critical aquifer recharge areas are categorized as follows:

(1) Category I – Category I critical aquifer recharge areas are those areas that are within a mapped 10-year time-of-travel area for a Group A public water system. If the 10-year time-of travel is not available, the location of the Category I area shall be determined based on the largest mapped time-of-travel area available.

(2) Category II – Category II critical aquifer recharge areas are those areas with highly permeable soils that provide rapid recharge with limited groundwater protection.

(3) Category III – Category III aquifers are locations with aquifers present, but which have a surface soil material that encourages runoff, slows water entry into the ground, or provides some filtration of water.

b. Critical Area Report – Additional Requirements for Critical Aquifer Recharge Areas.

(1) description of the general geological and hydrological characteristics of the area under pest application consideration;

(2) description of local characteristics associated with site drainage and water movement;

(3) description of conditions prior to project development;

(4) description of conditions as they are likely to exist after complete development of the proposed project, and their impact on groundwater quantity and quality;

(5) the post development description shall include the effects of the activities likely to occur as a result of the complete development and use of the project, at final equilibrium;

(6) as part of subsection e. above, the effects of sewage disposal, lawn and yard activities, agriculture and animal husbandry, storm water impacts, and any other impact reasonably associated with the project type shall be described.

3. Development standards.

a. The site analysis developed by the qualified professional will propose as a derivative of the information described in section 21.10.070(B)(1)(a), a water quality baseline which will serve as a minimum standard that shall not be further degraded by proposed development.

b. The creation of additional impervious surfaces shall be limited to that amount described in the site analysis that will ensure adequate aquifer recharge and water quality protection.

c. Development approvals shall ensure that all best management practices are employed to avoid introducing pollutants into the aquifer. Such methods include the collection and disposal of storm water away from the aquifer recharge area or on-site detention, treatment and infiltration of storm water.

C. Frequently flooded areas.

1. Site analysis—required for development sites containing mapped flood hazard areas for the purpose of establishing base flood elevations of the one hundred (100) year flood event.

a. Critical Area Report – Additional Requirements for Frequently Flooded Areas.

(1) Plans drawn to scale showing the nature, location, dimensions and elevations of the area in question, and existing or proposed structures, fill, storage of materials, and drainage facilities. A topographic map of the site with two (2) foot contours at a minimum scale of 1:2,400. Elevation data shall be certified by a licensed professional land surveyor.

(2) Elevation in relation to mean sea level of the lowest floor (including basement) of all nonresidential structures;

(3) Elevation in relation to mean sea level to which any structure has been flood proofed

(4) Certification by a registered professional engineer or architect that the flood

proofing methods for any nonresidential structure meet the flood proofing requirements; and

(5) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

2. Development standards.

a. All developments must satisfy the provisions of the National Flood Insurance Program, authorized by the National Flood Insurance Act of 1968.

b. A floodplain permit shall be obtained before construction or development begins within any area of special flood hazard. The permit shall be for all structures including manufactured homes and other development, including fill and other activities.

c. The areas for state and local floodplain management regulations shall be those areas subject to a base (100-year) flood. Base floodplains are designated as special flood hazard areas on the most recent maps provided by the Federal Emergency Management Agency for the National Flood Insurance Program. Best available information shall be used if these maps are not available or sufficient.

d. Land uses in the floodplain combining district shall be subject to all relevant local, state, or federal regulations including those of the underlying zoning district. Where applicable, permit requirements under the Shoreline Management Act (Chapter 90.58 RCW), or the State Flood Control Zone Act (Chapter 86.16 RCW) may be substituted for permits required under this chapter; provided, that the standards of this chapter are applied.

D. Geologically hazardous areas.

1. Erosion hazard.

e. Site analysis—required to determine the exact location and circumstances that might be expected to precipitate a significant erosion event.

(1) Critical Area Report – Additional Requirements for Erosion Hazard Areas. The analysis shall be prepared by a qualified professional as defined herein, and include the following additional information:

(a) The type and effectiveness of mitigating measures available to safeguard the public safety and welfare shall be addressed.

(b) The analysis shall discuss the proposed development's influence on the erosion hazard and suggest appropriate design and development measures that might be taken to minimize such hazards.

f. Development standards.

(1) Documented landslide hazard areas shall be avoided as locations for building construction, roads, or utility systems where mitigation is not feasible.

(2) If the degree of hazard warrants some development activity, post construction slope stabilization and appropriately upgraded road

construction specifications shall be employed to eliminate as completely as practicable any public or private exposure to landslide hazards or abnormal maintenance or repair costs.

2. Landslide hazard

   a. Site analysis—required to identify and quantify geologic, topographic and hydrologic factors that might contribute to slope stability.

      (1) Critical Area Report – Additional Requirements for Landslide Hazard Areas. The analysis shall be prepared by a qualified professional as defined herein, and include the following additional information:

         (a) The rate and extent of potential hazards to development activity must be assessed and mitigation measures, if any, evaluated.

         (b) The proposed development must be analyzed in the light of the hazards and effects represented by the landslide exposure on proposed public and private investments.

         (c) Development operational factors should be included in the analysis to account for the effects of storm water generation from impervious surfaces and the influence of street conveyance on slope stability.

   b. Development standards.

      (1) Documented landslide hazard areas shall be avoided as locations for building construction, roads, or utility systems where mitigation is not feasible.

      (2) If the degree of hazard warrants some development activity, post construction slope stabilization and appropriately upgraded road construction specifications shall be employed to eliminate as completely as practicable any public or private exposure to landslide hazards or abnormal maintenance or repair costs.

      (3) Buffer and Setback Distances.

         (a) Activities at the base of ascending slopes (building at the bottom of a steep slope):

            (i) For slopes greater than or equal to forty percent (40%) and less than one hundred percent (100%), buffers shall extend a distance away from the toe of the slope that is equal to the vertical height of the slope divided by two, but not to exceed fifteen (15) feet. For slopes less than one hundred percent (100%), the toe of the slope is defined as a distinct break in slope at the base of a steep slope.

            (ii) For slopes greater than one hundred percent (100%), the buffer shall extend a distance back from the toe of the slope equal to the height of the slope divided by two, not to exceed fifteen (15) feet. The buffer shall be measured horizontally from a plane, drawn tangent to the top

of the slope at an angle of forty-five (45) degrees to the proposed structure.

(iii) The setback shall be eight (8) feet beyond the buffer.

(b) Activities at the tops of descending slopes (building at the top of a steep slope):

(i) For slopes greater than or equal to forty percent (40%) and less than one hundred percent (100%), buffers shall extend a distance back from the top of the slope equal to the vertical height of the slope divided by three (3), but not to exceed forty (40) feet. The top of the slope is defined as a distinct break in slope at the top of a steep slope.

(ii) For slopes greater than one hundred percent (100%), the buffer shall extend a distance back from the top of the slope equal to the height of the slope divided by three (3), but not to exceed forty (40) feet. The buffer shall be measured horizontally from a plain drawn at forty-five (45) degrees (one hundred percent (100%) slope) from the toe of the slope to the proposed structure.

(iii) The setback shall be eight (8) feet beyond the buffer.

(c) For projects not required to have a landslide protection area, the setback from the steep slope shall be equal to the buffer distance set in this subsection.

(d) The Planning Advisor may approve buffers and setbacks which differ from those required by if the applicant submits a geologic hazard area study described in Section 40.430.030(C), which technically demonstrates and illustrates that the alternative buffer provides protection which is greater than or equal to that provided by the buffer required in Section 40.430.020(D)(1).

(e) The Planning Advisor may increase buffers or setbacks where necessary to meet requirements of the International Building Code.

(4) Other than for exemptions listed in Section 21.10.050, vegetation removal is not allowed on slopes over forty percent (40%) without an approved geologic hazard area study completed by a qualified professional demonstrating that vegetation removal will not result in increased landslide or erosion hazards.

(5) Buffers, landslide protection areas and setbacks for steep slopes on projects having approved grading shall be based on regulated steep slopes that remain after that grading.

3. Mine hazard areas.

(Section reserved: no such lands deemed to exist within the city.)

4. Seismic hazard areas.

   Until detailed mapping of such areas is completed, all new structures within the city shall conform to building code requirements relating to seismic hazard.

5. Volcanic hazard areas.

   (Section reserved: no such lands deemed to exist within the city.)

E. Fish and wildlife habitat conservation areas.

1. Site analysis—required to identify priority habitats and species, habitats, and species of local importance, and the nature and extent of such species' primary association with the habitat conservation area. The investigation shall consider relative density and species richness, breeding habitat, seasonal range dynamics, and movement corridors. The analysis shall address the relative tolerance by species of human activities. The development proposal shall be evaluated in terms of its influence on the above factors and recommend mitigative measures as appropriate. The analysis is to be prepared by a qualified professional in consultation with the WDFW and appropriate federal agencies.

   a. Critical Area Report – Additional Requirements for Fish and Wildlife Habitat Conservation Areas.

      (1) A critical area report for a habitat conservation area shall contain an assessment of habitats including the following site- and proposal-related information at a minimum:

         (a) Detailed description of vegetation on and adjacent to the project area;

         (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 special management recommendations, including Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area;

         (d) A discussion of measures, including avoidance, minimization and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded prior to the current proposed land use activity; and

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

      (2) The city may request third party "peer review" of an application by qualified professionals and may incorporate recommendations from such third party

reports in findings approving or denying the application.

(3) All reports recommending mitigation shall include provisions for monitoring of programs and replacement of improvements, on an annual basis, consistent with report recommendations and at one-, three-, five- and seven-year intervals.

(4) The city may require replacement mitigation to be established and functional concurrent with project construction.

(5) Mitigation efforts shall ensure that development activity does not yield a net loss of the area or function, including fish and wildlife habitat values, of the critical area.

2. Fish and wildlife habitat conservation areas include the following categories:
   a. Riparian/Streams
   b. Endangered and Threatened Species
   c. Priority Habitat Species Areas
   d. Local Habitat Areas
3. Riparian/Streams.
   a. Stream classification. Streams will be classified using the following Water Typing System (WAC 222-16-030) described in Table 21.10.270-7.

Table 21.10.070-7 Stream Classification	
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

b. Riparian buffer widths. Riparian buffers are established for habitats that include aquatic systems. Unless otherwise allowed in this chapter, all structures and activities shall be located outside of the riparian buffer area. The following base riparian buffer widths in Table 21.10.070-8 are based upon the Washington Department of Natural Resources (DNR) Water Typing System and further classification based upon fish presence (Fish bearing v. Non-fish Bearing) for Type F streams. Widths shall be measured outward, on the horizontal plane, from the ordinary high water mark or from the top of bank if the ordinary high water mark cannot be identified. Buffer areas should be sufficiently wide to achieve the full range of riparian and aquatic ecosystem functions, which include but are not limited to protection of instream fish habitat through control of temperature and sedimentation in streams; preservation of fish and wildlife habitat; and connection of riparian wildlife habitat to other habitats.

Table 21.10.070-8: Riparian Buffer Widths	
Stream Type	**Base Buffer Width**
Type S	150 feet
Type F, anadromous fish bearing stream	100 feet
Type F, non-anadromous fish bearing stream	75 feet
Type Np	50 feet
Type Ns	25 feet

c. Stream buffer area reduction and averaging. The Planning Advisor may allow the base stream buffer area width to be reduced in accordance with a critical area report only if:

(1) The width reduction will not reduce or degrade stream or habitat functions, including anadromous fish habitat and those of nonfish habitat;

(2) The stream buffer area width is not reduced by more than fifty percent (50%) in any one location;

(3) The stream buffer area width is not reduced to less than fifteen (15) feet;

(4) The width reduction will not be located within another critical area or associated buffer and the reduced stream buffer area width is supported by best available science;

d. Stream buffer mitigation. Mitigation of adverse impacts to stream buffer areas shall result in equivalent functions and values, on a per function basis, and be located in the same drainage basin as the habitat impacted.

4. Endangered and Threatened Species.

Species which are state or federally designated endangered, threatened, and sensitive species and the habitat with which they have a primary association. Lists, categories and definitions of species promulgated by National Marine Fisheries

Service (NMFS), U.S. Fish and Wildlife Service (USFWS), and WDFW are provided to the city to be used for guidance only.

5. Priority Habitat Species Areas.

   The WDFW has identified priority habitats and/or species considered to be priorities for conservation and management. Priority habitat types have unique or significant value to many species. Priority species are those species that require protective measures and/or management guidelines to ensure their perpetuation. Habitat types and species are listed in Exhibit A showing the location of priority species habitats and are kept on file at the city.

6. Local Habitat Areas.

   Local habitat areas include those areas specifically identified as local habitat areas on the city's adopted critical areas map and background maps used to prepare the critical areas map.

   a. The city or private citizens may nominate areas for consideration as local habitat areas and for inclusion on the critical areas map.

   b. The applicant shall be responsible for preparing the nomination using city-prescribed forms. The applicant shall pay a processing fee of one percent of the assessed value of the proposed area as zoned at the time of application. The Planning Commission, through a Type II process, and in reliance upon all best available science in the hearing record, shall make a determination of whether the nominated area qualifies as a local habitat area.

7. Development standards.

   a. No development approval shall be granted unless mitigation of adverse effects can be provided that will ensure continuation of base-line populations for all fish and wildlife habitat areas. Base-line populations are those population levels known or reasonably believed to have been supported by the area in question with relative stability over the decade preceding the proposed development. For streams, creeks, rivers, ponds, lakes and wetlands containing priority habitat and/or species, an undisturbed riparian buffer area shall be provided in accord with Table 21.10.070-8.

   b. Development reviews shall include consideration of species' regional occurrence and movements, with a view to avoiding creation of isolated sub-populations of those species.

   c. No approval shall be granted to a project for which the site analysis shows an adverse impact to any threatened or endangered species under the Endangered Species Act, without prior review and approval by appropriate federal agencies.

   d. Applicants proposing activities subject to this chapter shall demonstrate that the activity substantially maintains the level of habitat functions and values as characterized and documented using best available science, and minimizes

habitat disruption or alteration beyond the extent required to undertake the proposal. (Ord. 1046, 2015)

21.10.080 Warning and disclaimer of liability.

The degree of hazard protection required by this ordinance is considered reasonable for regulation purposes and is based on scientific and engineering considerations. Catastrophic natural disasters can, and will, occur on occasion. This does not imply that land outside critical areas, or activities permitted within such areas, will be free from exposure or damage. This chapter shall not create liability on the part of the city, and officers or employees thereof, for any damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

21.10.090 Appeals.

I. Administrative Appeals.

A. Any party of record aggrieved by a recommendation of the Planning Commission to approve, conditionally approve, or disapprove a plan may appeal the decision of the Planning Commission to the City Council in a closed record appeal. An appeal must be filed with the City Clerk-Treasurer within thirty (30) days of the date the recommendation is made. In the closed record appeal the council may affirm or reverse the Planning Commission's recommendation.

B. Any party of record aggrieved by a final decision of the City Council to approve, conditionally approve, or disapprove a plan may appeal the City Council's final decision to the Superior Court for Skamania County in accordance with the provisions contained in RCW Chapter 36.70c adopted by reference as if set forth in full, including any additions or amendments thereto.

21.10.100 Violations and penalties.

Violation deemed civil infraction: Any violation of the regulations as contained in this chapter or any amendment thereto shall be a civil infraction punishable by a fine in accordance within Chapter 7.01.020(E).

21.10.110 Severability.

If any section, subsection, sentence, clause, phrase, part or portion of this chapter is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions.

21.10.120 Effective date.

This chapter is in full force and effective five (5) days after passage and publication as provided by law.

EXHIBIT A

CRITICAL AREAS: MAPS ON FILE IN CITY HALL

MAP NUMBER	MAP NAME
1.	FLOOD HAZARD AREAS, FIRM MAP, FEMA
2.	STEEP SLOPES AND EROSION HAZARD AREAS; BASED ON SOIL SURVEY OF SKAMANIA COUNTY, 1990, U.S.D.A.
3.	FISH AND WILDLIFE CONSERVATION AREAS - HABITAT OR SPECIES OF LOCAL IMPORTANTANCE
4.	CRITICAL AQUIFER RECHARGE AREAS
5.	WASHINGTON DEPARTMENT OF FISH AND WILDLIFE PRIORITY HABITATS AND SPECIES (PHS) MAP
6.	CITY OF NORTH BONNEVILLE STREAM CLASSIFICATIONS MAP
7.	CITY OF NORTH BONNEVILLE WETLANDS MAP
8.	CITY OF NORTH BONNEVILLE GEOLOGICAL CRITICAL AREAS MAPx