

BOCC MINUTES-04/01/19

081412 THE BOARD OF WHITMAN COUNTY COMMISSIONERS met in their Chambers in the Whitman County Courthouse, Colfax, Washington for **Monday, April 1, 2019 at 9:00 a.m.** Chairman Arthur D Swannack, Michael Largent and Dean Kinzer, Commissioners and Maribeth Becker, CMC, Clerk of the Board attended.

9:00 a.m. - Call to Order/Board Business/BOCC Workshop.

Present: Gary Petrovich, Bill Tensfeld, Lance Bishop, Chris Nelson, Wraylee Flodin, Sandy Jamison, Bailey Wiedmer and Jana Mathias (9:00 a.m.).

081413 1. The following items were discussed but no action was taken.

- EWCOG
- Facilities Mgmt. Dir.
- Hazard Mitigation RFP
- Fair/.09 Funds
- Model Toxic Control Legis.
- Delineator Post Costs
- Medicare/County Employees
- Notaries/Policy
- Inland NW Partners Mtg.
- Tekoa 2016-.09 Funds

10:00 a.m. - Recess.

10:05 a.m. - Flag Salute.

Present: Gordon Forgey.

D081413A 2. Pledge of Allegiance.

Consent Agenda:

081414 3. Commissioner Largent **moved** Commissioner Kinzer **seconded** the motion and **carried** to accept the consent agenda as presented.

081415 4. Treasurer's Wire Transfers and Check Report in the amount of **\$409.38**, Payroll warrants numbered **341974-341879** for **\$449,526.63** and General Claims/Veterans' Relief warrants numbered **341898-341980** for **\$384,157.45** approved.

081416 5. March 18, 2019 minutes approved.

081417-081431 6. Personnel change orders approved.

081432 7. Commissioner Largent **moved** Commissioner Kinzer **seconded** the motion and **carried** to sign a proclamation proclaiming April, 2019 as National County Government Month.

**PROCLAMATION
NATIONAL COUNTY GOVERNMENT MONTH - APRIL 2019**

WHEREAS, Washington's 39 counties serving more than 7 million residents provide essential services to create healthy, safe and vibrant communities; and

WHEREAS, counties provide health services, administer justice, keep communities safe, foster economic opportunities and much more; and

WHEREAS, Whitman Count] and all counties take pride in our responsibility to protect and enhance the health, welfare and safety of our residents in efficient and cost-effective ways; and

WHEREAS, through the Washington State Association of Counties and the National Association of Counties across the nation, counties will be demonstrating how counties deliver services to our residents nationwide; and

WHEREAS, each year since 1991 the Washington State Association of Counties and the National Association of Counties has encouraged counties across the country to elevate awareness of county responsibilities, programs and services; and

NOW, THEREFORE, BE IT RESOLVED THAT, the Whitman County Commissioners, do hereby proclaim April 2019 as National County Government Month and encourage all county officials, employees, schools and residents to participate in county government celebration activities.

BOARD OF COUNTY COMMISSIONERS
OF WHITMAN COUNTY, WASHINGTON

Arthur D Swannack, Chairman

Dean Kinzer, Commissioner

ATTEST:

Maribeth Becker, CMC
Clerk of the Board

Michael Largent, Commissioner

081433 **8.** Commissioner Largent **moved** Commissioner Kinzer **seconded** the motion and **carried** to sign a proclamation proclaiming May, 2019 as Older American Month.



OLDER AMERICANS MONTH 2019 PROCLAMATION

Whereas, Whitman County includes a growing number of older Americans who enrich our community through their diverse life experiences; and

Whereas, Whitman County is committed to strengthening our community by connecting with and supporting older adults, their families, and caregivers and acknowledging their many valuable contributions to society; and

Whereas, Whitman County recognizes the importance of bringing together all generations and engaging in activities that promote physical, mental, and emotional well-being for the benefit of all; and

Whereas, Whitman County can enhance the lives of older Americans in our community by:

- Promoting home- and community-based services that support independent living;
- Involving older adults in community events and other activities; and
- Providing opportunities for older adults to work, volunteer, learn, lead, and mentor.

Now, therefore, we, the Board of County Commissioners of Whitman County, Washington do hereby proclaim May 2019 to be Older Americans Month. We urge every resident to take time during this month to recognize older adults and the people who serve them as essential and valuable members of our community.

Dated this 1st day of April, 2019.

Arthur D Swannack, Chairman

Dean Kinzer, Commissioner

ATTEST:

Maribeth Becker, CMC
Clerk of the Board

Michael Largent, Commissioner

10:10 a.m. - Bailey Wiedmer.

081434 9. Commissioner Largent **moved** Commissioner Kinzer **seconded** the motion and **carried** to sign the fixed account amendment as provided by Nationwide.

081435-081436 10. Commissioner Largent **moved** Commissioner Kinzer **seconded** the motion and **carried** to sign the Teamsters Welfare Trust Subscription agreements for 2014-16 and 2017-2020.

081437 11. Commissioner Largent **moved** Commissioner Kinzer **seconded** the motion and **carried** to appoint Cindy Alred to a 5-year term expiring 12/31/23 on the Rural Library Board of Trustees.

10:15 a.m. - Troy Henderson.

081438 12. Commissioner Largent **moved** Commissioner Kinzer **seconded** the motion and **carried** to approve a higher credit card limit for the Health Department from \$5,000-\$8,000 to enable efficient office operations.

081439 13. Commissioner Largent **moved** Commissioner Kinzer **seconded** the motion and **carried** to go out for requests for proposal to seek proposals from qualified consultants to review and update the Whitman County All-Hazard Mitigation Plan that meets all requirements.

081440 14. Commissioner Largent **moved** Commissioner Kinzer **seconded** the motion and **carried** to sign a resolution reorganizing the Emergency Management/Communications, Developmental Services, Fair, Parks and Facilities Management Departments.

081441 15. Commissioner Largent **moved** Commissioner Kinzer **seconded** the motion and **carried** to offer the Facilities Management Director position to Brandy Dean.

081442 16. **The** Commissioners' discretionary .09 award for the Fair was tabled to 04/15/19.

081443 17. Commissioner Largent **moved** Commissioner Kinzer **seconded** the motion and **carried** to authorize the publishing of a notice of hearing the marijuana moratorium.

CORRESPONDENCE:

D081443A 18. The following correspondence was received:

081444 18A. A letter was received from Kenneth J Wolfley requesting the county remove its objection so Hurricane Cannabis application may be approved by the Washington State Liquor and Cannabis Board. No action taken by the Board.

081445 18B. A letter was received from the Washington State Liquor and Cannabis Board disapproving the county's request to deny the application for Interstate 502, Inc.

BOCC MINUTES-04/01/19

081446 **18C.** An email was received from Linda Commons regarding regulating the production and processing of marijuana in Whitman County.

081467 **19.** Commissioners' pending list reviewed.

081448 **20.** At 10:25 a.m. the following combined bid was received for 2019-20 legal printing.

BIDDERS

	AMOUNT
Whitman County Gazette/Moscow-Pullman Daily News	\$10.35 per column inch and \$10.00 for each additional original affidavit requested

081449 **21.** Commissioner Largent **moved** Commissioner Kinzer **seconded** the motion and it **carried** to award the combined bid for 2019-20 legal printing to the Whitman County Gazette/Moscow-Pullman Daily News in the amount of \$10.35 per column inch and \$10.00 for each additional original affidavit requested. Letters and an agreement were sent to the successful bidders to sign and return. Upon receipt of a signed contract, the \$1,000 bid bond will be returned to the bidder.

10:30 a.m. - 2018-20 CDBG-PS Grants Hearing.

Present: Jeff Guyett, Executive Director of the Community Action Center, Gary Petrovich, Gordon Forgey and Les Ruhs.

080450 **22.** At 10:30 a.m. the regular meeting was recessed and the hearing convened by the Chairman for review of the 2018-19 CDBG-PS grant and the proposed 2019-20 CDBG-PS grant.

Jeff Guyett distributed handouts for the hearing and provided the following reports:

The Community Action Center (CAC) of Whitman County provided services in Whitman County through funding from the CDBG-Public Service grant in the amount of \$101,202 for the Fiscal Year July 1, 2018 to June 30, 2019. During the calendar year of 2018, we directly served approximately 5,600 individuals throughout Whitman County. We utilize the CDBG-PS as a critical support of programs that do not provide adequate funding to cover staff payroll and benefits, supportive administrative costs and/or space costs to fulfill the needed services to Whitman County residents with Low-to-Moderate income (LMI). The Subrecipient CDBG Public Service funds totaling \$98,202 were used as follows:

- The Community Food Program: CDBG funds were used to support food bank, gardens, food nutrition education, and the new commercial kitchen. We received over 7,000 visits to the Community Food Bank, distributed over 130,000 pounds of food, and rescued nearly 2,000 pounds of prepared foods from WSU Dining Services for distribution. 181 people learned enhanced cooking & nutrition education in a commercial kitchen at CAC, with similar engagement with dozens of students in schools in Pullman and Rosalia.
- Permanent Housing Assistance & Case Management: CDBG funds helped with costs to develop affordable housing, home ownership, and rental property resources for low to moderate income households in Whitman County. Work was delayed on 3 Rosalia self-help homes due to high construction costs, with exploration of modification of the program to provide pre-manufactured homes as an alternative. Far fewer households were involved with application or assistance with the Section 8 Housing Choice Voucher program, due to a freeze on voucher provisions by Spokane Housing Authority, although we are rebounding after the freeze was ended. CDBG-PS Funds were also used to place homeless persons, or those on the verge of homelessness, into temporary shelter, transitional, or permanent housing, and to cover case management services, as well as coordinated entry for homeless housing in the county.

BOCC MINUTES-04/01/19

- Emergency/Crisis Assistance: CAC used the CDBG-PS funds for allowable direct staff, administrative and space support to provide critical emergency, energy, and shelter services. We fielded approximately 5,600 phone calls for services, information, and referral through the course of a year, and served 1,557 households with Energy Assistance services in 2018, some who faced utilities shut-offs.
- Washington State Low Income Weatherization & Improvement: CDBG was used for allowable costs to support provision of Weatherization, lead testing, and healthy home repair services. There were 51 projects completed for income-eligible homeowners and eligible renters in multi-family housing in Whitman County, a significant increase in our annual production.
- Community Coordination/Collaboration: CAC continued its involvement with a growing number of community partners and agencies. One example is the 2018 Whitman County-wide Community Needs Assessment with 20 key stakeholders and more than 70 total entities & partners. As in 2015, the results of the Assessment will be available soon and used to inform program design & delivery and leveraged grant funding applications, for school districts, hospital districts, nonprofits, and local municipalities.

The CDBG-PS grant for July 1, 2019 - June 30, 2020 is in the amount of \$99,106, with \$96,106 dedicated to provide program support and services for Whitman County's 11,000+ low income households. We will continue to utilize the CDBG-PS funds as allowable for staff salaries, benefits and taxes, as well as administrative and space costs. Our intended uses of the CDBG funds are outlined below:

- The Community Food Programs: CAC will use CDBG funds for allowable direct staff costs, administrative and space support all Community Food programs, including nutrition education, food rescue, and the gardens program. We anticipate over 7,000 food bank visits and distributing over 150,000 pounds of food & commodities, including availability of fresh produce or greens 100% of the time.
- Permanent Housing Assistance: CAC will use the CDBG funds for allowable direct staff costs, administrative and space support to continue to develop affordable housing, home ownership and rental property resources for low to moderate income households in Whitman County. CDBG funds will be used to fund support staff costs as we enter into construction of the 56-unit Riverview affordable housing project in Pullman. This tax credit housing will provide housing to low and extremely low income households and will prioritize people who are homeless, seniors, disabled, and households with children.
- Emergency/Crisis Assistance: CAC will use CDBG funds for allowable direct staff, administrative and space support to provide critical emergency, energy and shelter services. We field approximately 8,500 phone calls for information and referral through the course of a year. We anticipate serving over 1,600 households with Energy Assistance and related services in 2019-20.
- Washington State Low Income Weatherization and Improvement: CAC will use CDBG funds for allowable direct staff, administrative and space support to provide weatherization and home rehabilitation services to low to moderate income households in Whitman County. We anticipate serving approximately more than 50 households each year, and are adding a Weatherization-Plus-Health component to reduce asthma and COPD triggers in the homes served. Additionally, we are rolling out the Washington State Rural Home Repair Loan fund program to make critical repairs when homes cannot qualify for Weatherization otherwise.
- Community Coordination/Collaboration: CAC will use the funds for allowable direct staff, administrative, and space support to provide continued involvement with over 30 community partners to continue to update and enhance our delivery of services. Part of that funding will be used to conduct community conversations around the results of the

Community Needs Assessment and to form action plans and help Whitman County communities to self-organize efforts locally.

- Case Management/Continuum of Care: CAC will use the CDBG -PS funds to provide continued and intensive case management to approximately 626 low to moderate income households utilizing crisis housing, homeless housing services, energy assistance, and rental assistance programs offered by CAC throughout Whitman County. The funds also assist our staff in maintaining collaborative and up-to-date relationships with other local service providers in updating a Whitman County Homeless Housing Plan.

The Chairman thanked Mr. Guyett and opened the hearing to public comments. There being none, the hearing was adjourned and the commissioners' regular meeting reconvened.

081451 **25. Motion** by Commissioner Largent **seconded** by Commissioner Kinzer and **carried** to authorize the Chairman to sign the 2019-20 CDBG-PS grant environmental review.

081452 **23. Motion** by Commissioner Largent **seconded** by Commissioner Kinzer and **carried** to authorize the Chairman to sign the 2019-20 CDBG-PS certification of compliance.

RESOLUTION NO. 081452
RESOLUTION WITH CERTIFICATIONS OF COMPLIANCE
(FOR CDBG PUBLIC SERVICES GRANT ONLY)

WHEREAS, *Whitman County* is authorized to apply to the state Department of Commerce for a Community Development Block Grant (CDBG); and

WHEREAS, *Whitman County* has identified a community development and housing priority need for which to seek CDBG funding; and

WHEREAS, it is necessary that certain conditions be met to receive CDBG funds;

NOW, THEREFORE, be it resolved that the *Whitman County Commissioners* authorize submission of this application to the state Department of Commerce to request \$99,106 and any amended amounts to fund public service activities in coordination with (*Community Action Center*), and certifies that, if funded, it:

Will comply with applicable provisions of Title I of the Housing and Community Development Act of 1974, as amended, and other applicable state and federal laws;

Has provided and will provide opportunities for citizen participation that satisfy the CDBG requirements of 24 CFR 570.486;

Will not use assessments against properties owned and occupied by low- and moderate-income persons or charge user fees to recover the capital costs of CDBG-funded public improvements from low- and moderate-income owner-occupants;

Has established or will establish a plan to minimize displacement as a result of activities assisted with CDBG funds; and assist persons actually displaced as a result of such activities, as provided in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended;

Will conduct and administer its program in conformance with Title VI of the Civil Rights Act of 1964 and the Fair Housing Act, will affirmatively further fair housing (Title VIII of the Civil Rights Act of 1968); and

Has adopted (or will adopt) and enforce a policy to prohibit the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; and has adopted (or will adopt) and implement a policy to enforce existing applicable state and local laws against physically barring entrance to or exit from a facility or location which is the subject of such nonviolent

BOCC MINUTES-04/01/19

civil rights demonstration within its jurisdiction, in accordance with Section 104(1) of the Title I of the Housing and Community Development Act of 1974, as amended;

Certifies to meeting the National Environmental Policy Act (NEPA) through a determination the CDBG-funded public services will not have a physical impact or result in any physical changes and are exempt under 24 CFR 58.34(a), and are not applicable to the other requirements under 24 CFR 58.6; and are categorically exempt under the State Environmental Policy Act (SEPA) per WAC 197-11-305 (2); and

Whitman County designates Arthur D Swannack, Chairman of the Board as the authorized Chief Administrative Official and authorized representative to act in all official matters in connection with this application and (name of county)'s participation in the Washington State CDBG Program.

Signature _____ Date 04/01/19
Name Arthur D Swannack
Title Chairman

Attested _____ Date 04/01/19
Maribeth Becker, CMC
Clerk of the Board

081453 24. Commissioner Largent **moved** Commissioner Kinzer **seconded** the motion and it **carried** to authorize the Chairman to sign the 2020-2020 CDBG-PS Title VI certification.

081454 26. Commissioner Largent **moved** Commissioner Kinzer **seconded** the motion and it **carried** that the 2019-2020 CDBG-PS grant application be submitted to the WA State Department of Commerce.

11:00 a.m. - Public Works.

Present: Dean Cornelison, Marc LaVanway, Alan Thomson, Katrin Kunz, Ben Moerhle and Garth Meyer.

081455 26A. The following Public Works related issues approved/updated:

ACTION ITEMS:

081456 27. The public meeting for the Agrow Solutions, LLC zone change was held. The official transmittal was received from the Assistant Planner, Katrin Kunz for the rezone of approximately 8-acres from the Agricultural District to the Limited Heavy Commercial District.

The property is located approximately 0.4 miles west of Pullman on the north side of the SR 195 intersection and Old Wawawai Road. The applicant, David Harlow would like a storage warehouse for the purpose of selling agricultural chemicals to farmers. A hearing was held by the Planning Commission on February 6th and as a result of that hearing, the Planning Commission recommended to the County Commissioners to approve the zone change request. There were no public comments.

081457 28. Commissioner Largent **moved** Commissioner Kinzer **seconded** the motion and it **carried** to approve the amendment of the Whitman County Zoning map for Agrow Solutions, LLC from the Agricultural District to a Limited Heavy Commercial District as presented.

ORDINANCE NO. 081457

AN ORDINANCE AMENDING THE WHITMAN COUNTY ZONING MAP TO CHANGE THE ZONING FROM AGRICULTURAL DISTRICT TO LIMITED HEAVY COMMERCIAL DISTRICT

BE IT ORDAINED and enacted by the Board of County Commissioners of Whitman County, State of Washington, it having been determined by the Board after hearing the recommendations and

BOCC MINUTES-04/01/19

findings of fact of the Whitman County Planning Commission that these should be accepted and this action is consistent with the Whitman County Comprehensive Plan.

Change the zoning for Agrow Solutions, LLC for an approximately 8-acre area from the Agricultural District to a Limited Heavy Commercial District for property in Section 1, Township 14 N., Range 44 E. W.M., Whitman County, Washington.

PASSED AND APPROVED by the Board of Whitman County Commissioners of Whitman County, Washington, on the 1st day of April, 2019.

BOARD OF COUNTY COMMISSIONERS
OF WHITMAN COUNTY, WASHINGTON

Arthur D Swannack, Chairman

ATTEST:

Dean Kinzer, Commissioner

Maribeth Becker, CMC
Clerk of the Board

Michael Largent, Commissioner

081458 29. The public meeting for the Colleen Schoepflin zone change was held. The official transmittal was received from the Assistant Planner, Katrin Kunz for the rezone of approximately 6.4-acres from the Agricultural District to an Airport Commercial District. The property is located at 801 Ringo Road approximately 1.5 miles south of Palouse.

The existing runway is located in Section 12, Township 16 N., Range 45 E., W.M., and the two T-hangars are located across the road from the other airport buildings in Section 7, Township 16 N., Range 46 E., W.M., Whitman County, Washington.

The applicant has requested a zone change for two areas pursuant to Chapter 19.04 - Amendments. The first site is an approximately 3.6-acre area that consists of an existing runway that is currently in the Agricultural District and is proposed to be rezoned to Airport Commercial District. It is connected to another runway that is already in the Airport Commercial District and located in the north west of the airport parcel. The second site is an approximately 2.8 acre area east of Ringo Road and consists of two T-hangars that are currently in the Agricultural District and shall be added to the existing Airport Commercial District. The areas are currently part of 2 larger parcels and are owned by Colleen Schoepflin. The proposed re-zone is consistent with the Whitman County Comprehensive Plan. The sites are all accessed off Ringo Road.

During the discussion of the Planning Commission it was agreed the portion of Ringo Road contiguous to the new Airport Commercial zone should be included within this zone change.

A hearing was held by the Planning Commission on February 6th and as a result of that hearing, the Planning Commission recommended to the County Commissioners to approve the zone change request. There were no public comment.

081458-A 30. Commissioner Largent **moved** Commissioner Kinzer **seconded** the motion and **carried** to accept and adopt the Planning Commission's recommendations and finding of fact and move to approve the amendment of the Whitman zoning map of Collene Schoepflin from the Agricultural District to an Airport Commercial District as presented.

ORDINANCE NO. 081458-A

AN ORDINANCE AMENDING THE WHITMAN COUNTY ZONING MAP TO CHANGE THE ZONING FROM THE AGRICULTURAL DISTRICT TO AN AIRPORT COMMERCIAL DISTRICT BE IT ORDAINED and enacted by the Board of County Commissioners of Whitman County, State of Washington, it having been determined by the Board after hearing the Recommendations and Findings of Fact of the Whitman County Planning Commission that these should be accepted and this action is consistent with the Whitman County Comprehensive Plan.

Change the zoning for Colleen Schoepflin for an approximately 6.4-acre area from the Agricultural District to an Airport Commercial District for property located at 801 Ringo Road, Palouse, WA 99161, in Section 12, Township 16 N., Range 45 E., and in Section 7, Township 16 N., Range 46 E., W.M., Whitman County, Washington.

PASSED AND APPROVED by the Board of Whitman County Commissioners of Whitman County, Washington, on the 1st day of April, 2019.

BOARD OF COUNTY COMMISSIONERS
OF WHITMAN COUNTY, WASHINGTON

Arthur D Swannack, Chairman

Dean Kinzer, Commissioner

Michael Largent, Commissioner

ATTEST:

Maribeth Becker, CMC
Clerk of the Board

081459 **31.** The regular meeting was recessed and the hearing convened by the Chairman for proposed revisions to Whitman County Code Chapters 19.10 and 19.12.

Staff report provided by Alan Thomson as follows:

The proposed revisions to the Whitman County Zoning Code, Title 19.10 as it relates to Agricultural is to clarify language for the creation of residential parcels and the issuance of Rural Housing Certificates (RHC); clarify the boundary line adjustment process in relation to residential parcels less than 20 acres; modify the Rural Residential Site Review (RRSR) process; change the commercial agricultural operator’s appeal time of an RHC from 20 days to 10 business days,; and amend the language for the design and construction of residential driveways to reflect a change in the Fire Code; and Title 19.12 as it relates to Cluster Residential District, amending the language for the design and construction of residential driveways to reflect a change in the Fire Code in order to make it consistent with the same change in Chapter 19.10.

The hearing was opened to public comment. There being none the hearing was adjourned and the regular meeting reconvened.

081460 **32.** Commissioner Largent moved Commissioner Kinzer seconded the motion and carried to approve the amendments to the Whitman County Zoning ordinance Chapters 19.10 and 19.12 as stated in the approved findings of fact.

ORDINANCE NO. 081460

AN ORDINANCE AMENDING CHAPTER 19.10 - AGRICULTURAL DISTRICT, AND CHAPTER 19.12 - CLUSTER RESIDENTIAL DISTRICT, to clarify language for the creation of residential parcels and the issuance of Rural Housing Certificates (RHC); clarify the boundary line adjustment process in relation to residential parcels less than 20 acres; modify the Rural Residential Site Review (RRSR) process; change the commercial agricultural operator's appeal time of an RHC from 20 days to 10 business days; and amend the language for the design and construction of residential driveways to reflect a change in the Fire Code to Chapter 19.10; and amend the language for the design and construction of residential driveways to reflect a change in the Fire Code in Chapter 19.12 in order to make it consistent with the same change in Chapter 19.10, as described in the proposed ordinance hereto attached and made a part of by reference. These changes are consistent with the Whitman County Comprehensive Plan and Zoning Ordinance.

BE IT ORDAINED and enacted by the Board of County Commissioners of Whitman County, State of Washington, it having been determined by the Board after hearing the Planning Department's Recommendations and Findings of Fact, after the Board's public hearing and adoption of Findings of Fact.

PASSED AND APPROVED by the Board of Whitman County Commissioners of Whitman County, Washington, on the 1st day of April, 2019.

BOARD OF COUNTY COMMISSIONERS
OF WHITMAN COUNTY, WASHINGTON

Arthur D Swannack, Chairman

ATTEST:

Dean Kinzer, Commissioner

Maribeth Becker, CMC
Clerk of the Board

Michael Largent, Commissioner

Chapter 19.10 - AGRICULTURAL DISTRICT

Revised 3/31/14 Ordinance #075323. Revised 7/3/17, Ordinance # 079100.

19.10.010 - Declaration of Intent.

The Agricultural District provides minimum standards for areas of general agricultural land use including requirements for single-family dwellings and accessory dwelling units. It is intended that agriculture be the primary use in this district and that the goals of the County Comprehensive Plan be pursued where reasonably possible.

19.10.020 - Permitted Uses.

- A. Agriculture, including cropping, grazing of livestock, dairying, horticulture and floriculture, but not commercial horse-boarding which shall be instead considered to be a home-based business and allowed and governed, or regulated by the provisions related to home-based businesses. (Revised April 21, 2008; Resolution No. 068024)
- B. One (1) single-family dwelling per parcel conforming to provisions of Section 19.10.060 and not located within the CRD Opportunity Area. In the case of there being two existing residences within 500 feet of each other, nearest corner to nearest corner, where no previous zoning has been done, a short plat can be created containing both houses. Neither of the residences would be considered an accessory dwelling unit. If a zoning permit has been previously issued for two main residences that are located more than 500 feet apart, nearest corner to nearest corner, a short plat is allowable. Under both of the above scenarios no other residential unit would be allowed on the short plat.

For the protection of resource lands, new residence(s) shall be located more than 1,000 feet from any permitted or grandfathered quarry, mine and/or other similar natural resource operations; or if it will be located within 1,000 feet of a permitted or grandfathered quarry, mine and/or other similar natural resource operations, an affidavit acknowledging adjacent mining activities, signed by the landowner, notarized and filed with the Whitman County Auditor, is required. This information will be attached to the short plat. The 1,000-foot distance is measured from the applicant's residential footprint to the designated mineral resource area, as described and/or defined in the administrative use permit or conditional use permit. (Revised April 19, 2010, Ordinance # 070610)

- C. Temporary stands for the sale of agricultural non-livestock products produced on the premises.
- D. Accessory uses and structures common or incidental to agricultural and residential use, including but not limited to garages, barns, tack rooms, equipment sheds, home storage elevators, fences and corrals, provided that such accessory uses and structures conform to the yard requirements of this chapter.
An accessory use or structure may be constructed prior to the construction of the principal use on a site that has been reviewed for compliance and has been approved as a rural residential site, pursuant to Section 19.10.060.
- E. Home-based businesses utilizing only those accessory buildings and structures permitted under this chapter and which from the premises' property line cannot be seen or heard or felt or smelled and will not have customer visits. (For more information on home-based businesses permitting, see Chapter 19.56.) (Revised April 21, 2008; Resolution No. 068024)
- F. Small antenna facilities, antenna support structures, temporary wind energy research structures such as meteorological towers and small wind energy generators up to 125 feet height in conformance with the requirements of Chapter 19.62 - Small Wind Energy Generators. (Revised 12/10/01, Ordinance # 058999) (Revised 10/20/08, Ordinance #068810) (Revised 11/16/09, Ordinance # 070081)
- G. Inert fill (earth only) of under 2,000 cubic yards of material removed from roadside ditch cleaning may be placed on any farmland with the landowner's permission.
Or, inert fill (earth only) of under 2,000 cubic yards of material removed from roadside ditch cleaning may be placed in active quarries and/or mines in compliance with approved reclamation. An additional under 2,000 cubic yards of roadside ditch cleaning materials may be placed on a separate parcel adjacent to the mining/quarry operation for future reclamation. (Adopted 7/1/13, Ordinance #074394)
- H. Private quarries under three (3) acres for uses related to agricultural activities by the land owner, for example farm access construction and maintenance.
- I. Accessory Dwelling Units conforming to provisions of Section 19.10.065.
- J. Level 1 and level 2 Electric Vehicle Charging Stations. (Revised 10/17/11 Ordinance #072330)
- K. Government facilities, offices, and the County fairgrounds.

19.10.030 - Lot Size Requirements.

- A. There shall be no minimum lot size for non-residential permitted uses in this district.
- B. The minimum lot size for residential uses permitted in this district shall be as determined per Section 19.10.060 (B) (2) (b).

19.10.040 - Setback Requirements.

- A. The minimum setback for all non-residential structures shall be twenty (20) feet on all sides, provided that a minimum setback of thirty-five (35) feet shall be required adjacent to the right-of-way of any state or county roadway designated as a primary or secondary arterial in the Comprehensive Plan.
- B. In the case of antenna support structures or meteorological towers, the front setback shall be thirty-five (35) feet from the right-of-way of any State or County road; side and rear setbacks shall be twenty (20) feet. Small wind energy generators are subject to the setback requirements in Chapter 19.62 - Small Wind

BOCC MINUTES-04/01/19

Energy Generators. (Revised 10/20/08, Ordinance #068810) (Revised 11/16/09, Ordinance # 070081)

- C. Accessories to the antenna support structures shall have a minimum setback of five (5) feet. (Revised 5/14/01, Ordinance #058050, Revised 12/10/01, Ordinance #058999)
- D. To facilitate road setback location, measurement may be made from the centerline of the adjacent road. The front setback shall be half the distance of that specific right-of-way width, plus the required setback, as measured from the road centerline.

19.10.050 - Height of Buildings.

- A. The maximum height of non-residential buildings and related accessory structures in this district shall be fifty (50) feet with the exception of agricultural grain bins or elevators. (Revised 8/1/11, Ordinance #072095)
- B. The maximum height of rural residences and related accessory structures in this district shall be thirty-five (35) feet.
- C. Antenna support structures shall not exceed 350 feet in height.

19.10.060 - Rural Residential Use.

One single-family dwelling per parcel shall be a permitted use whenever the requirements of this Title are fulfilled except when there are two existing houses within 500 feet of each other, and there is an existing zoning permit allowing for two residences, or the two residences are non-conforming grandfathered uses, then a short plat containing the two houses is allowed. The Planning Director shall certify through the Rural Housing Certificate (RHC) process that all requirements of this Title have been met. (Revised April 19, 2010, Ordinance #070610) (Revised 3/31/14 Ordinance #075323) (Revised 3/31/14 Ordinance #075323)

- A. Development requiring Certification
 - 1. Issuance of a Rural Housing Certificate shall be required for:
 - a. Creation of a new residential parcel that has no house on it yet. An RHC is also required for the creation of a new residential parcel on which will be located existing residence(s), except that such new parcel with existing residence(s), need not comply with the provisions of 19.10.060 (B) (1) (b) viewshed, (B) (2) (f) development buffer where the available land to be used as a buffer is not owned by the applicant, (B) (2) (g) setbacks where the available land to be used as a buffer is not owned by the applicant, and (B) (2) (i) highly visible locations. Excepted are land divisions greater than 20 acres (large lot subdivisions) with existing residence (s).
 - b. Alteration of an existing residential parcel less than 20 acres via a boundary line adjustment except when additional land is added to the parcel. Also excepted are boundary line adjustments on agricultural parcels greater than 20 acres containing a residence, which either increases or decreases the parcel size. This boundary line adjustment example will still need to meet zoning code setback requirements and the Whitman County Environmental Health Department's requirements regarding drainfield and well placement; (Revised 3/31/14 Ordinance #075323) (Revised 3/31/14 Ordinance #075323) or
 - c. Construction of a residence on an existing parcel which has not been certified. In this circumstance, if the size and shape of the existing parcel, and wetlands or flood hazard areas limit the location of a new residence so that it is not possible to meet the agricultural buffer or 100-foot house setback distance from the road, these specific regulations shall not apply except that the greatest adherence to these distances possible is encouraged. (Revised 10/27/08, Ordinance #068837)
 - 2. Issuance of a Rural Housing Certificate shall not be required on an existing rural residential parcel for which no parcel enlargement, reduction or division is requested when a new accessory structure is built and an existing

residence or an existing accessory structure is altered, expanded or replaced. For replacement purposes, the new residence may be sited up to 50 feet from the original residential footprint. (Revised 2/7/11, Ordinance #071612).

Because of limitations due to the size, shape, or existing vegetation of/on the parcel it may be necessary to replace the residence further than 50 feet from the original footprint. In this circumstance, if it is possible to meet the siting requirements for a rural housing certificate such as buffers, setbacks, viewshed, and no structures on hilltops or ridges, then they must be met. If meeting these siting requirements is not possible then those regulations shall not apply except that the greatest adherence possible to these regulations is encouraged. The parcel shall be reviewed for compliance with all applicable ordinances, including those which regulate setbacks, road access, preservation or expansion of the septic system, drainfield and replacement drainfield area, flood hazard, wetlands, aquifer recharge, and habitat conservation areas. However, no notice to adjacent landowners is required, and the size and other constraints of the parcel may prevent full compliance with hilltop prohibitions, the house 100-foot road setback distances, and buffer or setback distances required from other property; in which case these requirements do not apply. This review shall be termed Rural Residential Site Review (RRSR) and files shall be kept as proof of review and for future reference. (Revised 10/27/08, Ordinance #068837) An RRSR will be required for boundary line adjustments that increase the size of a residential parcel containing less than 20 acres. No RRSR will be required for boundary line adjustments that increase or decrease the size of a parcel greater than 20 acres, which contains a residence. (Revised 3/31/14 Ordinance #075323)

- B. Certification Approval - Issuance of a Rural Housing Certificate shall be granted when a proposal meets all of the following conditions:
1. Approval of Residence Location.
 - a. New rural residences may be sited in locations which meet requirements for a viewshed site or meet requirements for a residential group.
 - b. Viewshed Site - Definition. A proposed residential building footprint which is located at least 1,500 feet horizontally from the nearest residence or certified residential site; or is located within 1,500 feet of one or more existing residences or certified residential sites but not visible from any of said residences or certified residential sites.
 - i. Definition of Not Visible: a proposed residential site is considered to be not visible if an observer standing at the corners of the footprint of the proposed residence and with their eye level at five (5) feet above existing grade cannot see any part of an existing residence or the footprint of another proposed residence due to the interposition of natural landforms.
 - ii. Exception for Highly Visible Residences: an existing residence within a viewshed under consideration and located on a hilltop or ridge, or whose highest point is higher than the slope on which it is located, shall be ignored due to its highly visible location.
 - c. Residential Group.
 - i. Definition: A residential group is defined as a collection of two to nine certified, residential parcels which are located such that at least some portion of each of the included residences is within 300 feet of some portion of another included residence. (Limited to nine or less residences to avoid the potential consequences of WAC 16-231-510.)
 - ii. Creation of a residential group. The owner of any residence constructed prior to January 1, 2007 may apply for review to

create a residential group by submitting an application for a Rural Housing Certificate to obtain permission to construct a new residence which must be located within 300 feet of the existing residence.

- iii. An existing residential group may be expanded to a maximum of nine houses.
 - d. Agricultural Notification. In the case of any application for a Rural Housing Certificate, all owners of property within 1,500 feet of the proposed residential building footprint shall be notified by mail. Any owner of a commercial agricultural operation within 1,500 feet of the proposed new site may appeal the decision to the Board of Adjustment within 120 business days after the date of the notice, to show that a significant negative effect on their farming operation would be created. If the owners sign a waiver from this requirement, such notice is not required.
2. Approval of Parcel Configuration.
- a. In General: For the purpose of meeting the minimum building lot requirements of this section, public and private easements or rights-of-way for roads, railroads or utilities shall be ignored.
 - b. Minimum lot size: The area of the subject lot shall be no less than the minimum area required by the Whitman County Department of Environmental Health to safely accommodate approved water supply and on-site sewage disposal systems.
 - c. Access to an improved road: All residential parcels shall be accessible from an improved County road or State highway.
 - d. Frontage/easement requirement: Lots without frontage on an improved public road shall be permitted if access to such a road has been obtained via an easement across adjacent property and if said access has been approved by the appropriate agency.
 - e. Driveways
 - i. Any driveway that serves more than two residences shall be designed and constructed to ensure safe access for emergency vehicles, by and under oversight by a professional engineer licensed in the State of Washington.
 - ii. Driveways shall be designed to fit existing land contours.
 - iii. Access to an improved public road must be approved and issued by the Whitman County Public Works or the Washington State Department of Transportation. Shared driveways are encouraged to enhance safety of traffic flow entering and leaving improved roads.
 - f. Development Buffers
 - i. Residential development other than of the types listed in (f) (iv) (1) through (11), below, shall not be allowed within 200 feet of property being used for commercial agricultural production at the time of development, or within 100 feet if written permission of the owner of property in production is secured. This area between residential development and commercial agricultural production shall be referred to as the "development buffer."
 - ii. Development buffers shall appear on the short plat of the parcel and any other surveys subsequently produced.
 - iii. The width of an adjacent road's right-of-way may be included as part of the development buffer.
 - iv. Structures and activities related to residential living shall not be allowed within the development buffer. Such structures and activity areas include residences, decks, play areas, home occupation areas, greenhouse, garden, orchard, ornamental trees and so forth. Structures and uses that shall be allowed within the development buffer include, but are not limited to:

- 1) Garages
 - 2) Storage sheds
 - 3) Equipment sheds
 - 4) Driveways
 - 5) Wells, if not part of a Group A or B water system
 - 6) Septic system drain fields
 - 7) Stables
 - 8) Livestock pens and corrals
 - 9) Hay storage
 - 10) Vegetation compatible with adjacent agricultural uses, including pasture, wildlife areas, hay land and native plants.
 - 11) Windbreaks and shelterbelts
- v. The residential owner may lease the development buffer for agricultural uses such as farming, grazing and so forth.
- g. Setbacks.
- i. The minimum setback for all non-residential structures shall be twenty (20) feet on all sides, provided that a minimum setback of thirty-five (35) feet shall be required adjacent to the right-of-way of any State or County Bituminous Surface Treatment/Asphalt Concrete Pavement (BST/ACP) road. (Revised 3/31/14 Ordinance #075323)
 - ii. For all residential structures the minimum setback from roads shall be 100 feet and the minimum setbacks on all other sides of the residence shall be twenty (20) feet except where the development buffer requires a greater distance.
- h. Water and Sanitation. The applicant shall provide proof of adequate and potable water, as required by Whitman County Environmental Health for a rural residence and shall meet all other requirements of Whitman County Public Health, the Washington State Department of Health and any other agencies regarding the permitting of wells and domestic waste disposal.
- i. Highly visible locations. All buildings and structures located on hills or ridges shall be sited and/or constructed to minimize the appearance of a silhouette against the sky as measured this way. No part of a structure shall be higher than the highest part of the landform on which it will be built. A landform is described for the purpose of this chapter as the natural topographic high point separated from other topographic high points by a drop of at least 40 feet.
3. Approval of Lighting.
New lighting fixtures shall be designed and installed so as to control the direction and intensity of light which affects neighboring properties or roadways, so that direct rays of light don't shine onto neighboring properties or serve as a source of light pollution.
- a. New lighting fixtures must be shielded, hooded and oriented towards the ground.
 - b. Use of motion-sensing devices and/or timers is encouraged.
 - c. No new lighting shall blink, flash or be of an usually high intensity or brightness.
 - d. All new lighting fixtures shall be appropriate in scale, intensity and height to their use.
4. Weed Control.
- a. It is the responsibility of the owner(s) of rural land to control weeds.
 - b. Uncontrolled weeds that are a source of further weed dispersion across property boundaries constitute a significant threat to agricultural production. Therefore, a statement asserting this responsibility shall appear on any plat that creates a lot for the purpose of a residential site. However, this ordinance is not intended to, and does not,

BOCC MINUTES-04/01/19

signed the same as their free and voluntary act and deed in witness whereof, and date above written.

Notary Public In and For the State of Washington
Residing at _____
My commission expires _____

- b. The following steps are required for this compliance:
 - i. _____ Completing and signing this Certification
 - ii. _____ Obtaining Planning Office review
 - iii. _____ Filing this Certification with the County Auditor
 - iv. _____ Providing proof from the County Auditor for the Planning and/or Building Inspection office(s) that this Certification has been filed
- c. The existence of this Certification must be conveyed to each future owner of this property.

C. Vesting.

- 1. Upon receipt of fees and a complete application, the Planning Director shall grant to the applicant a temporary development right. The Planning Office shall not accept any additional Rural Housing Certificate applications for residences within the viewshed of the proposed residence until the Planning Director has either granted or denied a Rural Housing Certificate for the proposed residence.
- 2. If granted a Rural Housing Certificate, the applicant shall have 270 days during which to complete construction of an approved well and to file a short plat. Failure to complete these steps within this time period shall result in voiding of the Rural Housing Certificate except when an approved water supply has been established and a building permit for a residence has been issued, a short plat is not required.

19.10.065 - Accessory Dwelling Units.

- A. Purpose. An Accessory Dwelling Unit (ADU) is an additional smaller, subordinate dwelling unit on a lot with, or in, an existing or new house. These units are intended to provide for a greater range of choices of housing types in the Agricultural District. Accessory Dwelling Units are intended to enhance options for families by providing opportunities for older or younger relatives to live in proximity while maintaining a degree of privacy.
- B. Applicability. A property with a primary residence and an Accessory Dwelling Unit is different from a property with two residences because the intensity of use is less due to the limitations of size and number of bedrooms. An Accessory Dwelling Unit that meets the requirements of this subsection may be allowed on any lot developed with an existing single-family dwelling, except as noted herein.
- C. Development Standards.
 - 1. No more than one Accessory Dwelling Unit per legal lot is permitted and it must be accessory to a single-family residence. If a short plat is approved, an Accessory Dwelling Unit for each lot is permitted only if all other provisions of this Chapter are met.
 - 2. No Accessory Dwelling Unit is allowed if there are two primary residences on one parcel of land. (Revised April 19, 2010, Ordinance #070610).
 - 3. Whenever the requirements of this Section are at variance with the requirements of any of the lawfully-adopted ordinances, the most restrictive, or that imposing the higher standards to be met prior to a land use being permitted, shall govern.
 - 4. The applicant must apply for a building permit for an Accessory Dwelling Unit. An Accessory Dwelling Unit shall comply with applicable building, fire, and health and safety codes. An Accessory Dwelling Unit cannot be occupied until a certificate of occupancy is issued by the building department.
 - 5. An Accessory Dwelling Unit may be created through:
 - a. Internal conversion within an existing dwelling.

- b. The addition of new square footage to the existing house or to a garage and any addition thereto.
- c. Conversion of an existing structure.
- d. Inclusion in the development plans for, or as part of, the construction of a new single-family detached dwelling unit.
- e. A separate detached dwelling unit on the same lot as the primary dwelling unit.
 - 1) An Accessory Dwelling Unit shall conform to existing zoning requirements, including, but not limited to setbacks. The addition of an Accessory Dwelling Unit shall not make any lot, structure or use nonconforming within the development site.
 - 2) Building height is limited to twenty-five (25) feet for a detached Accessory Dwelling Unit. Building height requirements of the underlying zone do apply to the Accessory Dwelling Unit for internal conversion or structural addition to the existing primary dwelling.
 - 3) The total gross floor area of an Accessory Dwelling Unit shall not exceed either 1,200 square feet or 50% of the total gross floor area of the primary residence, whichever is less.
 - 4) An Accessory Dwelling Unit shall not contain more than two (2) bedrooms.
 - 5) For an Accessory Dwelling Unit created by internal conversion or by an addition to an existing primary dwelling, only one (1) entrance may be located on the front of the house, unless the house contained additional front doors before the conversion. Secondary entrances should be located on the side or rear of the primary residence to the extent possible.

D. Historic Structures.

If an Accessory Dwelling Unit is on the same lot as or within a historic structure which has been designated on the national, state or local historic register, the following design guidelines are applicable:

- a. Exterior materials should be of the same type, size and placement as those of the primary dwelling structure.
- b. Trim on edges of elements of accessory structures and additions should be the same as those of the primary structure in type, size and placement.
- c. Windows in any elevation which faces a street should match those in the primary structure in proportion, i.e., same height, width and orientation (horizontal or vertical).
- d. Pediments and Dormers. Each Accessory Dwelling Unit over twenty (20) feet in height should have either a roof pediment or dormer if one or the other of these architectural features are present on the primary dwelling.

19.10.080 - Short Plat and Subdivision.

No short plat or subdivision for residential use shall be accepted by the Planning Office unless such plat complies with this chapter:

- A. Residential short plats in the Agricultural District must comply with the requirements of Section 19.10.060(B) (1) regarding viewsheds and groupings. A short plat means the division or re-division of land into four or less buildable lots.
- B. No long subdivision plat shall be approved within the Agricultural District.
- C. A short plat may be used to separate out a parcel on which is located a residence in existence prior to the adoption of this ordinance. This home site must meet the requirements of Section 19.10.060. It will then be considered a conforming rural residential use, and shall be issued a Rural Housing Certificate.
- D. The creation of parcels of less than twenty (20) acres in area is permitted for non-residential, agricultural, conservation and/or habitat purposes. It is also permitted for isolating non-agricultural features for separate ownership purposes such as a well, a residential wind turbine and similar features.

1. Language describing the use limitations for agriculturally related short plats shall be placed on the plat. The short plat survey shall include the following statement: "This parcel and its structures are limited to agricultural use only. This parcel has not been evaluated as a building site for any other use. If there is a future intent to try to use this parcel and its structures for any uses other than agriculture, further review for compliance with Whitman County code is required, and it is possible that this parcel will not be able to comply and be approved for different uses."
2. If, in the future, there is a desire to change the use of this parcel, such as enlarging it to be part of a future residential or other use, the properties will have to be reviewed again to see if such proposed use can comply with land use regulations. If such approvals can be obtained, a revised plat containing language reflecting changes must be filed with the County Auditor. (Amended 9/10/12, Ordinance #073358)

19.10.090 - Conditional Uses and Administrative Permits.

- A. Because of considerations of traffic, noise, lighting, hazards, health and environmental issues, the following uses shall not be permitted in the Agricultural District unless a conditional use permit authorizing such use has been granted by the Board of Adjustment; provided, however, that in situations described herein where an administrative use permit may be granted in lieu of a conditional use permit, the use of the land shall not be permitted until such time as an administrative use permit has been granted by the County Planning Office. (Revised 11/18/91, Ordinance #45331)
1. Public or private substations, renewable energy generating facilities, energy storage facilities and energy facilities fueled by natural gas. (Revised 11/16/09, Ordinance #070081) and (Amended 9/10/12, Ordinance #073358)
 2. Small wind energy generators greater than 125 feet in height and greater than 100 Kw. cumulative generating capacity. (Revised 10/20/08, Ordinance #068810)
 3. Utility storage and transportation facilities.
 4. Private and public recreational facilities such as campgrounds, golf courses, rifle ranges, and similar uses.
 5. Churches.
 6. Airstrips.
 7. Solid waste site or transfer station.
 8. Feedlots.
 9. Commercial agricultural commodity warehouse. (Adopted 7/1/13, Ordinance #074394)
 10. Veterinary clinics, boarding kennels, and similar uses.
 11. Surface mining and crushing subject to the minimum standards listed in Sections 19.59 and 19.60.
 12. Home-based businesses that exceed the threshold of a permitted use may be allowed as an administrative use or a conditional use. (For more information on home-based businesses permitting, see Chapter 19.56.) (Revised April 21, 2008; Resolution No. 068024)
 13. Gun clubs and fraternal organizations.
 14. Agricultural repair shops
 15. On-site hazardous waste treatment and storage facilities, provided that such facilities are accessory to a permitted or conditional use, and provided that such facilities meet the state siting criteria adopted pursuant to RCW 70.105.210.
 16. Landfill for inert materials (earth, concrete and asphalt) of more than 2,000 cubic yards of material (including over 2,000 cubic yards of aggregate stockpile materials on a separate parcel from the mining operation) [For earth fills less than 2,000 cubic yards, see Section 19.05.020(C)].
 17. Recycling Facility, provided, however, that hazardous material, infectious material and/or radioactive material which federal or state regulations would allow to be recycled but which the County may deem to be unsafe or detrimental to public welfare, shall not be allowed without a Conditional Use

Permit issued by the Board of Adjustment and a Special Permit issued by the Whitman County Health Department. Said permits shall establish specific conditions for the processing-handling of the hazardous material, infectious material and/or radioactive material, where the State of Washington or the Federal Government has not otherwise preempted all control and regulation of said materials. (Revised 11/18/91, Ordinance #045331)

18. Agricultural Research Facility, such as but not limited to greenhouses, laboratories, machine sheds, arboretum, animal science facilities, farm equipment service and maintenance operations associated with a principal conditional use listed herein, and a care-taker residence. (Revised 4/26/95, Ordinance #048077)
 19. Mining, quarry, and/or other similar natural resource operations located within 1,000 feet of any residence or within one mile from any incorporated community or designated unincorporated rural community, subject to the minimum standards in Section 19.59 and Section 19.60.
- B. An Administrative Use Permit shall be required for:
1. Surface mining and crushing subject to the minimum standards listed in Section 19.59 and Section 19.60.
 2. Mining located more than one mile from an incorporated community or designated unincorporated rural community.
 3. Landfill for inert materials (earth, concrete and asphalt) of less than 2,000 cubic yards of materials.
 4. Natural topsoil and subsoil fill materials on agricultural lands. (Revised 12/21/15, Ordinance # 077293).
 5. Support structure facilities, (towers and accessories) for antennae and other similar uses greater than forty (40) feet in height subject to the requirements of Section 19.58 - Communication and Utility Facilities. (Revised 2/7/11, Ordinance #071612).
 6. Level 3 Electric Vehicle Charging Stations. (Revised 10/17/11, Ordinance #072330)
 7. Temporary asphalt and/or concrete batch plants. (Revised 8/17/15, Ordinance #076901)

19.10.100 - Natural Topsoil and Subsoil Fill Materials on Agricultural Lands.

- A. PURPOSE: The intention of this section is to allow by an administrative process natural top soil and subsoil such as clay, silt, sand or gravel to be deposited on agricultural lands and have the land continue in agricultural use. The topsoil or subsoil fill may come from any offsite development or land restoration project but subject to the following requirements:
1. The soil deposited can only be top soil or clean earth. No manmade materials such as concrete, asphalt, glass, tires or woody vegetation is allowed.
 2. Best Management Practices (BMP's) are required to control stormwater runoff and airborne soil erosion. An erosion control plan must be submitted and approved by the Planning Department before the administrative use permit is issued.
 3. The fill site is to be monitored by the County Environmental Health Department and subject to their requirements for clean earth.
 4. A road haul permit may be required from the Public Works Department for protection of county roads.
 5. Fills shall be placed in lifts not to exceed two feet to at least 90% compaction as determined by ASTM D-1557 Modified Proctor.
 6. Fills shall be placed no thicker than 15 feet without providing a geotechnical engineer's report outlining conditions under which the 15 feet may be safely exceeded.
 7. Final fill slopes shall not exceed 4:1 (horizontal to vertical) without providing a geotechnical engineer's report outlining conditions under which steeper slopes can be safely constructed.
 8. Fill cannot be placed on slopes steeper than 4:1 without constructing a basal key and benching the fill to improve slope stability.

9. Fill that is placed and compacted in this manner will not be deemed suitable for installation of gravity septic drainfields in the future.
10. Any future development of the fill area will require a full geotechnical engineering evaluation prior to permitting for construction.
11. Fill placed within four feet of the completed final ground surface need only be lightly compacted to allow for ongoing agricultural use.

19.10.110 - Special Conditional Use for Planned Residential Development (PRD).

A. PURPOSE: This section establishes a location for and allows for the creation of a Planned Residential Development, (PRD), designed to foster creative, efficient, and comprehensive site development, intended for special site locations, conditions and circumstances, in concert with WCO Chapter 18.50, Subdivision Ordinance - Planned Residential Development, and:

1. Create a development form which allows for preservation of important sites within the County, containing significant natural shoreline areas, geology, habitat and/or ecosystems, and the goals of which are compatible with Whitman County's Comprehensive Plan.
2. Produce a development which would be better than traditional lot-by-lot development, on either consolidated lots or unsubdivided property, through variety in design, placement of buildings, and use of undeveloped natural areas, in order to capitalize on the special features of the individual site.
3. Permit flexibility that will encourage a more creative approach in the development of land and will result in a more efficient, aesthetic, and desirable use of undeveloped areas, while at the same time harmonizing with adjoining development.
4. Ensure preservation of important natural habitat, and important ecosystems.
5. Preserve and enhance special site features including areas of cultural significance and, habitat, wetlands and; compliance with the County's critical areas ordinances.
6. Maximize use of alternative energy sources and energy-efficient structures, while employing strategies for conservation of water and other resources.

B. There is created a special conditional use for Planned Residential Developments within specific areas of the Agricultural District.

1. The general areas within the Agricultural District in which a special conditional use for Planned Residential Developments shall be allowed are as follows:

Township 20 N.	Ranges E.	39, 40, 41, 42, and 43;
Township 19 N.	Ranges E.	39, 40 and 41;
Township 18 N.	Ranges E.	39 and 40;
Township 17 N.	Ranges E.	39 and 40;
Township 16 N.	Ranges E.	38, 39 and 40;
Township 15 N.	Ranges E.	37, 38, 39 (except sections 24, 25 and 36), 41, 42, and 43;
Township 14 N.	Ranges E.	36, 37, 38, 39, 40, 41, 42 and 43;
Township 13 N.	Ranges E.	37, 38, 39, 40, 43 and 44;
Township 12 N.	Ranges E.	44, 45 and 46; or,
Township 11 N.	Ranges E.	45 and 46
2. Within the above described general areas only a proposed PRD parcel meeting the following criteria shall be allowed a special conditional use permit.
 - a. Not more than 25% of the proposed PRD parcel shall contain prime farm land, defined as land used for the production of a crop on which the average yield for the preceding three years exceeded the Whitman County average by 20%.
 - b. The proposed PRD parcel contains at least 51% of any or any combination, of the following soil associations: Ander-Benge-Kuhl Association; Bakeoven Tucannon-Cheney Association; Kuhl-Alpowa Association; Starbuck-Alpowa Association, or, land that can be described as non-tillable.

- c. The "General Soil Map, Whitman County, Washington" published by the U.S. Department of Agriculture, Soil Conservation Service, edition 1979, as now or hereafter amended, shall be recognized as illustrative of the general locations of the designated soil associations and aid in determining non-tillable land. A copy of this map or its current version shall be retained in the Planning Department office for public access.
 - d. Should a question occur during the Conceptual Plan Review for a PRD, as set forth in WCO Chapter 18.50, the applicant shall, by proof acceptable to the County Planner, establish compliance with this section.
3. No special conditional use for a PRD shall be granted, for any reason without exception, to any PRD proposed parcel wherein any portion of the proposed PRD parcel is within two miles of the boundary of any state park.
- C. Except for the provisions of this section, an applicant for a special conditional use for a PRD shall not be required to meet any other provisions of WCO 19.10 or any section of WCO Chapter 19 which is inconsistent with the provisions of WCO Chapter 18.50, Subdivision Ordinance - Planned Residential Development, as now or hereafter amended.
 - D. The Planning Commission shall be the sole agency to review and approve, modify or deny a special conditional use for a PRD. A denial by the Planning Commission may be appealed to the Board of County Commissioners within 30 days of the denial.
 - E. A special conditional use for a PRD shall be granted by the Planning Commission with at least the following minimum conditions:
 - 1. Full compliance with the provisions of WCO Chapter 18.50, Subdivision Ordinance-Planned Residential Development.
 - 2. Full compliance with the County's critical areas ordinances, as now or hereafter amended, as well as any and all State Environmental Policy Act determinations, and,
 - 3. Approval of the Planned Residential Development by the Whitman County Board. (Revised 4/30/07 Ordinance #066838, effective 5/15/07)

Chapter 19.12 - CLUSTER RESIDENTIAL DISTRICT

(Adopted 12/22/2003; Ordinance #0061970)

Amended 7/3/17, Ordinance #079100

Section 19.12.010 - Declaration of Intent.

The Cluster Residential District provides minimum standards for specified areas in order to allow more non-farm rural residential places.

Section 19.12.020 - Permitted Uses.

- A. One single-family dwelling per buildable lot;
- B. Accessory structures to a permitted use;
- C. Temporary stands for sale of agricultural non-livestock products produced on the premises;
- D. Home-based businesses utilizing only those accessory buildings and structures permitted under this chapter, and which from the premises' property line cannot be seen or heard or felt or smelled and will not have customer visits. (For more information on home-based businesses permitting, see Chapter 19.56.) (Revised April 21, 2008; Resolution No. 068024)
- E. Agricultural activities including but not limited to cropping and grazing of livestock.
- F. Level 1 and level 2 Electric Vehicle Charging Stations. (Revised 10/17/11, Ordinance # 072330)

Section 19.12.030 - Zone and Lot Size Requirements, and House to Acreage Ratios.

- A. The minimum zone size for a short plat consisting of four buildable lots shall be 20 acres. The minimum zone size for a long plat consisting of at least six buildable lots shall be 60 acres.
- B. This zone must be capable of creating at least four lots that are suitable for building a single-family residence.
- C. Lots may be as small as ½ acre as long as the short plat ratio of at least 5 acres per residence is maintained, or the long plat ratio of at least 10 acres per residence is maintained.

Section 19.12.040 - Yard Requirements.

Setbacks are measured from the nearest point of a structure to the property line and are determined by the zoning of the adjacent property. If the adjacent property is zoned:

- A. Cluster Residential District, the setback for all principal and accessory uses and structures shall be 20 feet.
- B. Agricultural District, the setback for all principal and accessory uses and structures shall be 200 feet, unless a waiver from the adjacent landowner is obtained then the setback shall be 100 feet.
- C. The North and South Pullman-Moscow Corridor Districts, the setback for all principal and accessory uses and structures shall be 200 feet, unless a waiver from the adjacent landowner is obtained then the setback shall be 100 feet.
- D. Light or Heavy Industrial District, Heavy Commercial District, or a Highway/Waterway Commercial District, the setback for all principal and accessory uses and structures shall be 200 feet unless a waiver from the adjacent landowner is obtained then the setback shall be 100 feet.
- E. The right-of-way of any state or county roadway, the setback shall be thirty-five feet from primary and secondary arterials as designated in the Comprehensive Plan and twenty feet for non-arterials. All residences shall be setback no less than 100 feet from any road right-of-way.

Section 19.12.050 - Height of Buildings.

The maximum height of buildings and structures in this district shall be thirty-five feet as measured from the average of the highest and lowest natural grade points of the foundation, to the top of the roof.

Section 19.12.070 - Short Plat and Long Plat Subdivisions.

Whitman County shall accept no short plat or subdivision for residential use within this Cluster Residential District unless such plat complies with this chapter:

- A. Short plats:
 - 1. A short plat in this zoning district must create four buildable lots in a zone of at least 20 acres; additional non-buildable lots, to be held in common ownership by a homeowners' association and not certified as eligible residential parcels, may also be created. The short plat shall identify any non-buildable lots as non-buildable and include a note stating that no residences may be constructed on parcels so labeled.
 - 2. The four buildable lots must meet code requirements so that they are eligible for residential building permits. These lots must be platted, and the plat must show the private road right-of-way, preliminary drain field locations, well locations and utility easements. Road construction must be completed to each lot prior to the issuance of any building permit. Proof of adequate, potable water is required prior to approval of the short plat per RCW 19.27.097(1) or as subsequently revised.
 - 3. Minimum lot size shall be ½ acre and there is no maximum lot size.
 - 4. If land is not held in common ownership, easements for roads and utilities must be provided. Road and utility construction and maintenance agreements are required.
 - 5. Cluster Residential Districts, once created and platted, shall not be further subdivided unless the zoning classification is changed. Minor boundary line adjustments or a replat of the original short plat may be allowed as long as

these changes do not jeopardize the integrity of each lot as a building site nor the accessory systems developed to support the plat.

6. Prior to approval of the plat, the land owner shall file with the County Auditor a deed restriction and/or easement of acceptance of agricultural operations document. This document shall also be printed on the plat or adequately referenced so that future buyers have opportunity to be aware of this deed restriction and/or easement. Applicants for any residential building permit shall sign and file a form that indicates they are aware of the deed restrictions and/or easements. Documents that in the future convey the land to new owners shall also acknowledge the existence of these filed documents. The deed restriction and/or easement sample is attached to the last part of this chapter.
7. Once an area has been successfully zoned Cluster Residential District, the process of platting may be initiated and completed. Upon successful completion of platting, the lots may be conveyed and building permits sought.

B. Long plats:

1. A long plat must create at least six buildable lots in a zone of at least 60 acres; additional non-buildable lots, to be held in common ownership by a homeowners' association and not certified as eligible residential parcels, may also be created. The preliminary and final plats shall identify any non-buildable lots as non-buildable and include a note stating that no residences may be constructed on parcels so labeled.
2. For each additional buildable lot, the zone size must be expanded by 10 acres, so that the ratio of 10 acres per residence is maintained.
3. The six or more buildable lots must meet code requirements so that they are eligible for residential building permits. These lots must be platted, and the plat must show the private road right-of-way, preliminary drain field locations, well locations and utility easements. Since a long plat can be phased, road construction must be completed to each lot prior to approval of that phase of the long plat, (the Final Plat). Proof of adequate, potable water is required prior to approval of the Final Plat per RCW 19.27.097(1) or as subsequently revised, although a developer may wish to assure an adequate supply of potable water earlier in the process.
4. Minimum lot size shall be $\frac{1}{2}$ acre and there is no maximum lot size.
5. If land is not held in common ownership, easements for roads and utilities must be provided. Road and utility construction and maintenance agreements are required.
6. Cluster Residential Districts, once created and platted, shall not be further subdivided unless the zoning classification is changed. Minor boundary line adjustments or a replat of the original long plat may be allowed as long as these changes do not jeopardize the integrity of each lot as a building site nor the accessory systems developed to support the plat.
7. Prior to approval of the plat, the landowner shall file with the County Auditor a deed restriction and/or easement of acceptance of agricultural operations document. This document shall also be printed on the plat or adequately referenced so that future buyers have opportunity to be aware of this deed restriction and/or easement. Applicants for any residential building permit shall sign and file a form that indicates they are aware of the deed restrictions and/or easements. Documents that in the future convey the land to new owners shall also acknowledge the existence of these filed documents. The deed restriction and/or easement sample is attached to the last part of this chapter.
8. Once an area has been successfully zoned Cluster Residential, the process of platting may be initiated and completed. Upon successful completion of platting, the lots may be conveyed and building permits sought.

Section 19.12.080 - Conditional Uses and Administrative Uses.

Because of considerations of traffic, noise, lighting, hazards, health and environmental issues, the following uses shall not be permitted in the Cluster Residential District unless a conditional use permit authorizing such use has been granted by the Board of Adjustment:

- A. Home-based businesses that exceed the threshold of a permitted use may be allowed as an administrative use or a conditional use. (For more information on home-based businesses permitting, see Chapter 19.56.) (Revised April 21, 2008; Resolution No. 068024)
- B. An Administrative Use Permit is required for a Level 3 Electric Vehicle Charging Station. (Revised 10/17/11, Ordinance # 072330)

Section 19.12.90 Special Features for Cluster Residential District (CRD)

- A. PURPOSE: This section establishes potential locations for and allows for the creation of Cluster Residential Districts, (CRD), designed to foster creative, efficient, and comprehensive site development, intended for special site locations, conditions and circumstances, in concert with WCO Chapter 18.50, Subdivision Ordinance, and:
 - 1. Produce a non-farm rural residential development which would be better than traditional, scattered houses, through variety in design, placement of buildings, and use of undeveloped natural areas, in order to capitalize on the special features of the individual site;
 - 2. Permit flexibility that will encourage a more creative approach in the development of land and will result in a more efficient, aesthetic, and desirable use of undeveloped areas, while at the same time harmonizing with adjoining development;
 - 3. Ensure preservation of important natural habitat, and important ecosystems;
 - 4. Preserve and enhance special site features including areas of cultural significance and, habitat, wetlands and; compliance with the County's critical areas ordinances.
 - 5. Maximize use of alternative energy sources and energy-efficient structures, while employing strategies for conservation of water and other resources.
- B.
 - 1. There is created the possibility for a Cluster Residential District within specific areas of Whitman County, hereafter termed CRD Opportunity Areas, as follows:

The areas that may be converted from Agricultural District to the Cluster Residential District are those remaining areas from the originally identified cluster opportunity areas that lie outside the tax sharing area agreed upon between the County and the City of Pullman. The tax sharing area is identified as follows: The following described land located in Whitman County, State of Washington:

All that part of the NE $\frac{1}{4}$ of Section 25 lying southeast of a line drawn from the NE corner of the NE $\frac{1}{4}$ to the SW corner of the NE $\frac{1}{4}$ of said Section 25; The SE $\frac{1}{4}$ of Section 25; All that part of the SW $\frac{1}{4}$ of Section 25 lying southeast of a line drawn from the NE corner of the SW $\frac{1}{4}$ to the SW corner of the SW $\frac{1}{4}$ of said Section 25; All of Section 36; the East $\frac{1}{2}$ of the NE $\frac{1}{4}$ and the East $\frac{1}{2}$ of the SE $\frac{1}{4}$ of Section 35; All in Township 15 North, Range 44 East, W.M.

All that part of the SW $\frac{1}{4}$ of Section 25 lying west of a line that lies approximately 1,920 feet east and parallel to the West Section line of said SW $\frac{1}{4}$ of Section 25; The SE $\frac{1}{4}$, the SW $\frac{1}{4}$ and the NW $\frac{1}{4}$ all in Section 26; Sections 27, 28, 29, 30, 31, 32, 33, 34 and 35; The SE $\frac{1}{4}$, the SW $\frac{1}{4}$ and all that part of the NW $\frac{1}{4}$ lying west of a line that lies approximately 1,920 feet east and parallel to the West Section line of said NW $\frac{1}{4}$, all in Section 36; All in Township 15 North, Range 45 East, W.M.

The South $\frac{1}{2}$ of Section 31; the SW $\frac{1}{4}$ and Government Lots 3 and 4 of Section 32; All in Township 15 North, Range 46 East, W.M.

The NE $\frac{1}{4}$, the NW $\frac{1}{4}$, the SE $\frac{1}{4}$ and all that part of the SW $\frac{1}{4}$ lying easterly of a line that lies 1,000.00 feet westerly and parallel to the centerline of SR 195 all in Section 1; All that part of the East $\frac{1}{2}$ of Section 2 lying easterly of a line that lies 1,000.00 feet westerly and parallel to the centerline of SR 195; All that part of Section 12 lying easterly and northerly of the centerline of SR 195 and all that part of said Section 12 lying between the centerline of said SR 195 and a line 1,000.00 feet westerly and southerly and parallel to the centerline of SR 195 from the intersection of SR 27 and SR 195 to the northerly section line of said Section 12; All in Township 14 North, Range 44 East, W.M.

The NE $\frac{1}{4}$, the NW $\frac{1}{4}$ and the North $\frac{1}{2}$ of the SW $\frac{1}{4}$ all in Section 1; The NE $\frac{1}{4}$, the NW $\frac{1}{4}$, the North $\frac{1}{2}$ of the SW $\frac{1}{4}$, the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ and the North $\frac{1}{2}$ of the SE $\frac{1}{4}$ all in Section 2; Sections 3, 4, 5, 6, 7 and 8; All of Section 9 lying northerly of the said centerline alignment for the "Alternative B" route as drawn and shown in the South By-Pass Conceptual Route study prepared for the City of Pullman by Taylor Engineering dated November 28, 2005, and also lying northerly of the centerline of County Road Number 9070, Old Moscow Road; All of Section 10 lying northerly of said centerline of County Road Number 9070, Old Moscow Road; All that part of the North $\frac{1}{2}$ of Section 18 and the North $\frac{1}{2}$ of the NW $\frac{1}{4}$ of Section 17 lying northerly of the centerline alignment for the "Alternative B" route as drawn and shown in the South By-Pass Conceptual Route study prepared for the City of Pullman by Taylor Engineering dated November 28, 2005; All in Township 14 North, Range 45 East, W.M. (A map has been produced to show this area.) (Revised 12/21/15, Ordinance # 077295).

2. Land within the above-described areas may be considered for rezoning to Cluster Residential District. (Any area defined by interlocal agreement between the county and the city of Pullman that describes city expansion areas [adjacent to water and sewer line potential extensions] will be excluded from this zone.) The process by which this zone may be created is as follows:
 - a. The site plan prepared as part of the zone change application shall designate an area for the shared well, or for individual wells on each lot.
 - b. The site plan prepared as part of the zone change application shall show preliminary County Environmental Health information that potential residential sites will have access to area and soils adequate to be permitted for septic system drain fields, sufficient for each proposed residential building site.
 - c. The zone change application must show that the proposed access from an improved county road or state highway can be obtained from the appropriate government agency.
 - d. The internal road that serves the lots shall be a shared private road. In general, this road shall be designed to stay on one of the land's contours. It shall be designed and constructed to ensure safe access for emergency vehicles by and under oversight by a professional engineer licensed in the state of Washington.
 - e. Wells, drain fields, and so forth could be allowed within the setback/buffer area, but must maintain a 20-foot setback from the zone perimeter.
 - f. The setback/buffer from the perimeter of the Cluster Residential zone to the structures within the lots, as stated in Section 19.12.040 - Yard Requirements, shall not be rendered impervious, except those areas used by driveways and internal roads.
 - g. Compliance with the County's critical areas ordinances will direct development away from flood hazard and wetland areas, and will protect the aquifers. The Building and Fire Codes will guide development with regards to steep slopes and geologically hazardous soils. Structures

- built on 1:3 slopes or steeper are subject to additional Building Code provisions.
- h. Prior to the zone change public hearing, within county jurisdiction, notice shall be mailed to land owners within 1,000 feet of the proposed zone boundaries. Within city jurisdiction the notice distance shall be 300 feet. The property shall be posted with a public notice and the notice shall be published.
 - i. Prior to approval of any short plat survey or preliminary long plat survey, any Declaration of Covenants, Conditions and Restrictions (CCR) associated with said subdivision shall be reviewed by the County Planner for inclusion of
 - i. Regulations controlling assessments for the improvement and maintenance of shared infrastructure such as driveways and water systems.
 - ii. Regulations controlling amendment of the CCR document;
 - j. The CCR document may include other restrictions, such as those addressing type of construction, which are not required by Whitman County.
3. Special requirements within the zone:
- a. A grading permit shall be required prior to the disturbance of any vegetation and soils. Grading shall disturb the minimum area needed for the developments. It may be necessary for a grading permit to be issued prior to each new proposed development if the development occurs in phases or over time. The grading permit requirement shall be enforced through the Building Code.
 - b. All buildings and structures located on hills or ridges shall be sited and/or constructed to minimize the appearance of a silhouette against the sky as measured this way. No part of the structure shall be higher than the highest part of the landform on which it will be built. A landform is described for the purpose of this chapter as the natural topographic high point separated from other topographic high points by a drop of at least 40 feet.
 - c. Prior to the issuance of a building permit, in consultation with the appropriate Fire District, fuel breaks shall be designed to protect structures. It shall be the responsibility of each home owner and/or resident to implement and maintain the fuel break in such condition as to protect structures from wildfire damage. Whitman County shall have no liability for any wildfire damage.
 - d. Any development that is planned to meet State Department of Ecology storm water requirements shall be presented to Whitman County as part of the plat design. Although this is not a County requirement, this will involve land use, so the details of that development and/or the structures required shall be provided to Whitman County. In some cases, it may be possible to combine this with, for example, a fire flow storage system.
 - e. Outdoor lighting shall be of full cut-off design.
4. The deed restriction and/or easement sample as stated below shall be used when Cluster Residential Districts are created, and when there is a residential building permit and/or conveyance of Cluster Residential District lot ownership:
- a. Acknowledgement

COUNTY OF WHITMAN
STATE OF WASHINGTON
CERTIFICATION OF ADJACENT AGRICULTURAL USE

The undersigned do hereby certify to be the owner(s) of the hereinafter legally described real property and do hereby acknowledge that the proposed development is within the vicinity of property utilized for commercial agricultural purposes. Persons who may reside or work in any of the proposed structures may be subjected to inconvenience or discomfort arising from the pursuit of agricultural operations, including but not limited to plowing, seeding, application of agricultural chemicals (herbicides, pesticides, and fertilizer), cultivation, harvesting, the keeping of livestock, employment and use of labor, the operation of machinery, the transport or relocation of farm machinery or farm products, the storage of crops, and other accepted and customary agricultural activities conducted in accordance with federal and state laws. These normal agricultural practices that occur any time of day and any day of the week generate dust, fumes, smoke, noise and odor, and may slow traffic, or otherwise conflict with residential property uses. Whitman County has established agriculture as a priority use on agricultural lands (Ordinance No. 044668, February 4, 1991). Residents of property within the vicinity of agricultural lands should be prepared to accept such inconvenience or discomfort from normal, necessary farm and ranch operations. In the event of conflict, the residential property owner recognizes the preference to resolve it in favor of farm and ranch practices. The party(ies) who sign this acknowledgement, and their successors, hereby waive all common law rights to object to normal and necessary agricultural management activities legally conducted on agricultural land that may conflict with the use of this property for residential purposes.

This statement of acknowledgement shall be recorded with the Whitman County Auditor, and shall be binding on the undersigned, any future owners, encumbrances, their successors, heirs, or assignees.

Legal description of land: _____

A certification by the property owner is necessary to obtain approval for a zone change to Cluster Residential District, and prior to all building permits issued within this District. Whitman County Zoning Ordinance Section 19.12.080 (1)(f) and (2)(f)

I certify that I am / we are the owner(s) of the land described hereon.

Printed name of land owner: _____

Land owner signature: _____ Date: _____

ACKNOWLEDGMENT

STATE OF WASHINGTON)
) SS
COUNTY OF WHITMAN)

On this ___ day of _____, 20___, before _____ a Notary Public in and for the aforesaid state, personally appeared before me

_____ ; to me known to be the person(s) who executed the foregoing certificate and that they signed the same as their free and voluntary act and deed in witness whereof, and date above written.

Notary Public In and For the State of Washington

Residing at _____

My commission expires _____.

The following steps are required for this compliance:

1. _____ Completing and signing this Certification.
2. _____ Obtaining Planning Office review
3. _____ Filing this Certification with the County Auditor
4. _____ Providing proof from the County Auditor for the Planning and/or Building
5. _____ Inspection office(s) that this Certification has been filed.
The existence of this Certification must be conveyed to each future owner of this property.

(Revised 4/30/07 Ordinance #066838, effective 5/15/07)

081461 33. The regular meeting was recessed and the hearing convened by the Chairman for proposed revision to Whitman County Code, Chapter 9.05, Critical Areas.

Staff report provided by Alan Thomson as follows:

Mr. Thomson said staff and the Planning Commission have spent the last year updating the critical areas. Many revisions and discussion have been held with the State Department of Ecology. With the passage of the revised ordinance, Whitman County will have fulfilled its update requirement for the next 8 years.

The hearing was opened to public comment.

Commissioner Kinzer asked about agricultural ditching and Mr. Thomson said provided you don't alter a ditch while cleaning, per the Department of Ecology, and that is exempt. However, widening a ditch or changing its course is not exempt.

There being no further comments, the hearing was adjourned and the regular meeting reconvened.

081462 34. Commissioner Largent **moved** Commissioner Kinzer **seconded** the motion and **carried** to approve the amendments to the Whitman County Zoning ordinance, Chapter 9.05, as stated in the approved findings of fact.

ORDINANCE NO. 081462

AN ORDINANCE AMENDING CHAPTER 9.05 CRITICAL AREAS ORDINANCE as a required Growth Management Act (GMA) periodic update, as described in the proposed ordinance hereto attached and made a part of by reference. These changes are consistent with the Whitman County Comprehensive Plan and Zoning Ordinance.

BE IT ORDAINED and enacted by the Board of County Commissioners of Whitman County, State of Washington, it having been determined by the Board after hearing the Planning Department's Recommendations and Findings of Fact, after the Board's public hearing and adoption of Findings of Fact.

PASSED AND APPROVED by the Board of Whitman County Commissioners of Whitman County, Washington, on the 1st day of April 2019.

Arthur D Swannack, Chairman

ATTEST:

Dean Kinzer, Commissioner

Maribeth Becker, CMC
Clerk of the Board

Michael Largent, Commissioner

CHAPTER 9.05
CRITICAL AREAS

ARTICLE 1. GENERAL PROVISIONS

SECTION 9.05 PURPOSE AND GENERAL PROVISIONS

- 9.05.010 Repeal
- 9.05.020 Authority and Title
- 9.05.030 Purpose
- 9.05.040 Relationships to Other Regulations
- 9.05.050 Severability
- 9.05.060 Jurisdiction over Critical Areas
- 9.05.070 Protection of Critical Areas

SECTION 9.10 BEST AVAILABLE SCIENCE

- 9.10.010 Best Available Science

SECTION 9.15 DEFINITIONS

- 9.15.010 Definitions "A"
- 9.15.020 Definitions "B"
- 9.15.030 Definitions "C"
- 9.15.040 Definitions "D"
- 9.15.050 Definitions "E"
- 9.15.060 Definitions "F"
- 9.15.070 Definitions "G"
- 9.15.080 Definitions "H"
- 9.15.090 Definitions "I"
- 9.15.100 Definitions "J"
- 9.15.110 Definitions "K" (reserved)
- 9.15.120 Definitions "L"
- 9.15.130 Definitions "M"
- 9.15.140 Definitions "N"
- 9.15.150 Definitions "O"
- 9.15.160 Definitions "P"
- 9.15.170 Definitions "Q"
- 9.15.180 Definitions "R"
- 9.15.190 Definitions "S"
- 9.15.200 Definitions "T" (reserved)
- 9.15.210 Definitions "U"
- 9.15.220 Definitions "V"
- 9.15.230 Definitions "W"
- 9.15.240 Definitions "X" (reserved)
- 9.15.250 Definitions "Y" (reserved)
- 9.15.260 Definitions "Z" (reserved)

SECTION 9.20 APPLICABILITY, EXEMPTIONS, AND EXCEPTIONS

- 9.20.010 Applicability
- 9.20.020 Exemptions
- 9.20.030 Public Agency and Utility Exceptions
- 9.20.040 Reasonable Use Exception

SECTION 9.25 ALLOWED ACTIVITIES

- 9.25.010 Allowed Activities

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

SECTION 9.30 CRITICAL AREA PROJECT REVIEW PROCESS

- 9.30.010 General Requirements
- 9.30.020 Critical Area Pre-application Consultation
- 9.30.030 Critical Area Identification ~~Form~~ Process

SECTION 9.35 CRITICAL AREA REPORT

- 9.35.010 Critical Area Report - Requirements
- 9.35.020 Critical Area Report - Mitigation Requirements
- 9.35.030 Mitigation Sequencing
- 9.35.040 Mitigation Plan Requirements
- 9.35.050 Innovative Mitigation

SECTION 9.40 DETERMINATION PROCESS

- 9.40.010 Determination
- 9.40.020 Review Criteria
- 9.40.030 Favorable Determination
- 9.40.040 Unfavorable Determination
- 9.40.050 Completion of the Critical Area Review
- 9.40.060 Appeals

SECTION 9.45 VARIANCES

- 9.45.010 Variances

SECTION 9.50 UNAUTHORIZED ALTERATIONS AND ENFORCEMENT

- 9.50.010 Unauthorized Critical Area Alterations and Enforcement

ARTICLE III. SPECIFIC CRITICAL AREAS

SECTION 9.60 WETLANDS

- 9.60.010 Purpose
- 9.60.020 Identification and Rating
- 9.60.030 Regulated Activities
- 9.60.040 Exemptions and Allowed Uses in Wetlands
- 9.60.050 Wetland Buffers
- 9.60.060 Critical Area Report for Wetlands
- 9.60.070 Compensatory Mitigation
- 9.60.080 Unauthorized Alteration and Enforcement
- 9.60.090 Appeal

SECTION 9.70 FISH AND WILDLIFE HABITAT CONSERVATION AREAS

- 9.70.010 Purpose
- 9.70.020 Designation
- 9.70.030 Mapping
- 9.70.040 Critical Area Report Additional Requirements for Habitat Conservation Areas
- 9.70.050 Performance Standards

SECTION 9.80 CRITICAL AQUIFER RECHARGE AREAS

- 9.80.010 Purpose and Applicability
- 9.80.020 Procedure
- 9.80.030 Activities Allowed in Critical Aquifer Recharge Areas
- 9.80.040 Prohibited Uses
- 9.80.050 Site Assessment Report
- 9.80.060 Performance Standards
- 9.80.070 Affidavit of Awareness

SECTION 9.90 GEOLOGICALLY HAZARDOUS AREAS

- 9.90.010 Purpose
- 9.90.020 Designation of Specific Hazard Areas
- 9.90.030 Mapping
- 9.90.040 Activities Allowed in Geologically Hazardous Areas
- 9.90.050 Critical Area Report/Additional Technical Information Requirements for Specific Hazards
- 9.90.060 Performance Standards

SECTION 9.100 FREQUENTLY FLOODED AREAS

- 9.100.010 Declaration of Intent
- 9.100.020 Compliance
- 9.100.030 Abrogation and Greater Restrictions
- 9.100.040 Warning and Disclaimer of Liability
- 9.100.050 Permitted Uses
- 9.100.060 Development Permit Required
- 9.100.070 Permit Review
- 9.100.080 Development Standards
- 9.100.090 Variance Standards

ARTICLE I. GENERAL PROVISIONS

SECTION 9.05 PURPOSE AND GENERAL PROVISIONS

9.05.010 - Repeal

The current Whitman County Codes Chapter 9.05 - Critical Areas is hereby repealed in its entirety and is ~~are~~ replaced with this Chapter. Repeal of Chapters~~9.05~~ does not affect any existing permits, land use applications or requirements, or existing enforcement actions.

9.05.020 - Authority and Title

- A. As provided herein, the County Planner is given the authority to interpret and apply, and the responsibility to enforce this Chapter to accomplish the stated purpose.
- B. The County may withhold, condition, or deny development permits or activity approvals to ensure that the proposed action is consistent with this Chapter.
- C. The County may, at the applicant's expense, retain a third party review of any technical analysis or reports in order to verify whether such work is accurate and sufficient.
- D. This Chapter is known as the Whitman County Critical Areas Ordinance.

9.05.030 - Purpose

- A. The purpose of this Chapter is to designate and classify ecologically sensitive and hazardous areas and to protect these areas and their functions and values, while also allowing for reasonable use of private property.
- B. This Chapter is to implement the goals, policies, guidelines, and requirements of the Whitman County Comprehensive Plan and the Growth Management Act.
- C. The County finds that critical areas provide a variety of valuable and beneficial biological and physical functions that benefit the County and its residents, and/or may pose a threat to human safety or to public and private property. The beneficial functions and values provided by critical areas include, but are not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation of flood waters, ground water recharge and discharge, erosion control, protection from hazards, historical, archaeological, and aesthetic value protection, and recreation.
- D. **Goals.** By limiting development and alteration of critical areas, this Chapter seeks to:
 - 1. Protect members of the public and public resources and facilities from injury, loss of life, or property damage due to landslides and steep slope failures, erosion, seismic events, effects from volcanic eruptions, or flooding;
 - 2. Maintain healthy, functioning ecosystems through the protection of unique, fragile, and valuable elements of the environment, including ground and surface waters, wetlands, fish and wildlife and their habitats, and to conserve the biodiversity of plant and animal species;
 - 3. Direct activities not dependent on critical areas resources to less ecologically sensitive sites and mitigate unavoidable impacts to critical areas by regulating alterations in and adjacent to critical areas; and
 - a. Prevent cumulative adverse environmental impacts to water quality, wetlands, fish and wildlife habitat, and the overall net loss of wetlands, frequently flooded areas, and habitat conservation areas.
- E. The regulations of this Chapter are intended to protect critical areas in accordance with the Growth Management Act and through the application of the best available science, as determined according to WAC 365-195-900 through 365-195-925, and in consultation with state and federal agencies and other qualified professionals.
- F. This Chapter is to be administered with flexibility and attention to site-specific characteristics. It is not the intent of this Chapter to make a parcel of property unusable by denying its owner reasonable economic use of the property or to prevent the provision of public facilities and services necessary to support existing development and planned for by the community without decreasing current service levels below minimum standards.
- G. The County's enactment or enforcement of this Chapter shall not be construed for the benefit of any individual person or group of persons other than the general public.

9.05.040 - Relationship to Other Regulations

- A. These critical areas regulations shall apply as an overlay and in addition to zoning and other regulations adopted by the County.
- B. Overlapping designations. The designation process may result in critical area designations that overlay other critical area or natural resource land classifications. Overlapping designations should not necessarily be considered

inconsistent. If two or more critical area designations apply to a given parcel, or portion of a given parcel, both or all designations apply.

- C. Compliance with the provisions of this Chapter does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required (for example, Shoreline Substantial Development permits, Floodplain Development permits, Hydraulic Project Approval (HPA) permits, Section 106 of the National Historic Preservation Act, U.S. Army Corps of Engineers Section 404 permits, State Section 401 Water Quality Certifications or Administrative Orders, and National Pollution Discharge Elimination System permits). The applicant is responsible for complying with these requirements, apart from the process established in this Chapter.
- D. Whitman County opted into the Voluntary Stewardship Program (VSP) pursuant to RCW 36.70A.700-760 and the Washington State Conservation Commission approved the County's VSP work plan on August 7, 2017. As of that date, agricultural activities in and around critical areas will be addressed through the County's VSP work plan. However, compliance with the VSP does not constitute compliance with other federal, state, and local regulations and permit requirements as described in 9.05.040 (C).

9.05.050 - Severability

If any clause, sentence, paragraph, section, or part of this Chapter or the application thereof to any person or circumstances shall be judged by any court of competent jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered. The decision shall not affect or invalidate the remainder of any part thereof and to this end the provisions of each clause, sentence, paragraph, section, or part of this law are hereby declared to be severable.

9.05.060 - Jurisdiction of Critical Areas

- A. The County shall regulate all uses, activities, and developments within, adjacent to, or likely to affect, one or more critical areas, consistent with the best available science and the provisions herein.
- B. Critical areas regulated by this Chapter include:
 - 1. Wetlands as designated in Section 9.60;
 - 2. Fish and wildlife habitat conservation areas as designated in Section 9.70;
 - 3. Critical aquifer recharge areas as designated in Section 9.80;
 - 4. Geologically hazardous areas as designated in Section 9.90; and
 - 5. Frequently flooded areas as designated in Section 9.100.
- C. All areas within the County meeting the definition of one or more critical areas, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this Chapter.

9.05.070 - Protection of Critical Areas

Any action taken pursuant to this Chapter shall result in equivalent or greater functions and values of the critical areas associated with the proposed action, as determined by the best available science. All actions and developments shall be designed and constructed in accordance with Mitigation Sequencing, Section 9.35.030 to avoid, minimize, and restore all adverse impacts. Applicants must first demonstrate an inability to avoid or reduce impacts, before restoration and compensation of impacts will be allowed. No activity or use shall be allowed that results in a net loss of the functions or values of critical areas. Mitigation provisions do not apply to Critical Aquifer Recharge Areas (CARAs).

SECTION 9.10 BEST AVAILABLE SCIENCE

9.10.010 – Best Available Science

- A. **Protect Functions and Values of Critical Areas With Special Consideration to Anadromous Fish.** 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, such as salmon and bull trout, and their habitat.
- B. **Best Available Science to be Consistent with Criteria.** The 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.
- C. **Characteristics of a Valid Scientific Process.** In the context of critical areas protection, a valid scientific process is one that produces reliable information useful in understanding the consequences of a local government's regulatory decisions, and in developing critical areas policies and development regulations that will be effective in protecting the functions and values of critical areas. To determine whether information received during the permit review process is reliable scientific information, the County Planner shall determine whether the source of the information displays the characteristics of a valid scientific process. Such characteristics are as follows:
1. **Peer Review.** The information has been critically reviewed by other persons who are qualified scientific experts in that scientific discipline. The proponents of the information have addressed the criticism of the peer reviewers. Publication in a refereed scientific journal usually indicates that the information has been appropriately peer-reviewed;
 2. **Methods.** The methods used to obtain the information are clearly stated and reproducible. The methods are standardized in the pertinent scientific discipline or, if not, the methods have been appropriately peer-reviewed to ensure their reliability and validity;
 3. **Logical Conclusions and Reasonable Inferences.** The conclusions presented are based on reasonable assumptions supported by other studies and consistent with the general theory underlying the assumptions. The conclusions are logically and reasonably derived from the assumptions and supported by the data presented. Any gaps in information and inconsistencies with other pertinent scientific information are adequately explained;
 4. **Quantitative Analysis.** The data have been analyzed using appropriate statistical or quantitative methods;
 5. **Context.** The information is placed in proper context. The assumptions, analytical techniques, data, and conclusions are appropriately framed with respect to the prevailing body of pertinent scientific knowledge; and
 6. **References.** The assumptions, analytical techniques, and conclusions are well referenced with citations to relevant, credible literature and other pertinent existing information.
- E. **Absence of Valid Scientific Information.** Where there is an absence of valid scientific information or incomplete scientific information relating to a critical area leading to uncertainty about the risk to critical area function of permitting an alteration of or impact to the critical area, the County Planner shall take a "precautionary or a no-risk approach," that strictly limits development and land use activities until the uncertainty is sufficiently resolved.

SECTION 9.15 DEFINITIONS

9.15.010 - Definitions

Words not defined in this Chapter shall be as defined in the County Code, the Washington Administrative Code, or the Revised Code of Washington. Words not found in these codes shall be as defined in the Webster's Third New International Dictionary, latest edition.

9.15.010

A

Active Fault - A fault that is considered likely to undergo renewed movement within a period of concern to humans. Faults are commonly considered to be active if the fault has moved one or more times in the last 10,000 years, but faults may also be considered active in some cases if movement has occurred in the last 500,000 years.

Adjacent - Immediately adjoining (in contact with the boundary of the influence area) or within a distance that is less than that needed to separate activities from critical areas to ensure protection of the functions and values of the critical areas. Adjacent shall mean any activity or development located:

- a. On a site immediately adjoining a critical area;
- b. A distance equal to or less than the required critical area buffer width and building setback.

Alluvial Fan Flooding - Flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

Alkali Wetlands - Alkali wetlands are characterized by the occurrence of shallow saline water. In eastern Washington these wetlands contain surface water with specific conductance that exceeds 3000 micromhos/cm. The salt concentrations in these wetlands have resulted from a relatively long-term process of groundwater surfacing and evaporating.

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

Anadromous Fish - Fish that spawn and rear in freshwater and mature in the marine environment. While Pacific salmon die after their first spawning, adult char (bull trout) can live for many years, moving in and out of saltwater and spawning each year. The life history of Pacific salmon and char contains critical periods of time when these fish are more susceptible to environmental and physical damage than at other times. The life history of salmon, for example, contains the following stages: upstream migration of adults, spawning, inter-gravel incubation, rearing, smoltification (the time period needed for juveniles to adjust their body functions to live in the marine environment), downstream migration, and ocean rearing to adults.

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

Avalanche Hazard - An area susceptible to a large mass of snow or ice, sometimes accompanied by other material, moving rapidly down a mountain slope.

Aquifer - A geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

Aquifer, Confined - An aquifer bounded above and below by beds of distinctly lower permeability than that of the aquifer itself and that contains ground water under sufficient pressure for the water to rise above the top of the aquifer.

Aquifer Recharge Areas - Areas that, due to the presence of certain soils, geology, and surface water, act to recharge ground water by percolation.

Aquifer, Sole Source - An area designated by the U.S. Environmental Protection Agency under the Safe Drinking Water Act of 1974, Section 1424(e). The aquifer(s) must supply fifty percent (50%) or more of the drinking water for an area without a sufficient replacement available.

Aquifer Susceptibility - The ease with which contaminants can move from the land surface to the aquifer based solely on the types of surface and subsurface materials in the area. Susceptibility usually defines the rate at which a contaminant will reach an aquifer unimpeded by chemical interactions with the vadose zone media.

Aquifer, Unconfined - An aquifer not bounded above by a bed of distinctly lower permeability than that of the aquifer itself and containing ground water under pressure approximately equal to that of the atmosphere. This term is synonymous with the term "water table aquifer."

Area of Shallow Flooding - An area designated AO or AH Zone on the Flood Insurance Rate Map(s). The base flood depths range from one (1) to three (3) 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 indicates ponding.

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

9.15.020

B

Base Flood - A flood event having a one percent (1%) chance of being equaled or exceeded in any given year, also referred to as the 100-year flood. Designations of base flood areas on Flood Insurance Rate Map(s) always include the letters A or V.

Basement - Any area of the building having its floor below ground level on all sides.

Best Available Science - Current scientific information used in the process to designate, protect, or restore critical areas that is derived from a valid scientific process as defined by WAC 365-195-900 through 925. Sources of the best available science are included in Citations of Recommended Sources of Best Available Science for Designating and Protecting Critical Areas published by the Washington State Department of Commerce.

Best Management Practices (BMPs) - Conservation practices or systems of practices and management measures that:

- a. Control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics and sediment;
- b. Minimize adverse impacts to surface water and ground water flow and circulation patterns and to the chemical, physical, and biological characteristics of wetlands;

BOCC MINUTES-04/01/19

- c. Protect trees and vegetation designated to be retained during and following site construction and use native plant species appropriate to the site for re-vegetation of disturbed areas; and
- d. Provide standards for proper use of chemical herbicides within critical areas.

The Town shall monitor the application of best management practices to ensure that the standards and policies of this Chapter are adhered to.

Biodiversity - The variety of animal and plant life and its ecological processes and interconnections - represented by the richness of ecological systems and the life that depends on them, including human life and economies.

Biological Wetland - A biological wetland is a wetland that meets the three parameter criteria of either the 1987 Corps of Engineers Delineation Manual or the 1997 Washington State Wetlands Identification and Delineation Manual (WAC 173-22-035). Compare to *jurisdictional wetland*.

Bog - A low-nutrient, acidic wetland with organic soils and characteristic bog plants, which is sensitive to disturbance and impossible to re-create through compensatory mitigation.

Buffer or Buffer Zone - An area that is contiguous to and protects a critical area which is required for the continued maintenance, functioning, and/or structural stability of a critical area.

9.15.030

C

Channel Migration Zone (CMZ) - The lateral extent of likely movement along a stream or river during the next one-hundred (100) years as determined by evidence of active stream channel movement over the past one-hundred (100) years. Evidence of active movement over the one-hundred (100) year time frame can be inferred from aerial photos or from specific channel and valley bottom characteristics. The time span typically represents the time it takes to grow mature trees that can provide functional large woody debris to streams. A CMZ is not typically present if the valley width is generally less than two (2) bankfull widths, if the stream or river is confined by terraces, no current or historical aerial photographic evidence exists of significant channel movement, and there is no field evidence of secondary channels with recent scour from stream flow or progressive bank erosion at meander bends. Areas separated from the active channel by legally existing artificial channel constraints that limit bank erosion and channel avulsion without hydraulic connections shall not be considered within the CMZ.

Compensation Project - Actions necessary to replace project-induced critical area and buffer losses, including land acquisition, planning, construction plans, monitoring, and contingency actions.

Compensatory Mitigation - Replacing project-induced losses or impacts to a critical area, and includes, but is not limited to, the following:

- a. Restoration - Actions performed to reestablish wetland functional characteristics and processes that have been lost by alterations, activities, or catastrophic events within an area that no longer meets the definition of a wetland;
- b. Creation - Actions performed to intentionally establish a wetland at a site where it did not formerly exist;
- c. Enhancement - Actions performed to improve the condition of existing degraded wetlands so that the functions they provide are of a higher quality; and

- d. Preservation - Actions taken to ensure the permanent protection of existing, high-quality wetlands.

Conservation Easement - A legal agreement that the property owner enters into to restrict uses of the land. Such restrictions can include, but are not limited to, passive recreation uses such as trails or scientific uses and fences or other barriers to protect habitat. The easement is recorded on a property deed, runs with the land, and is legally binding on all present and future owners of the property, therefore, providing permanent or long-term protection.

Creation - The manipulation of the physical, chemical, or biological characteristics to develop a wetland on an upland or deepwater site, where a wetland did not previously exist. Creation results in a gain in wetland acreage and function. A typical action is the excavation of upland soils to elevations that will produce a wetland hydroperiod and hydric soils, and support the growth of hydrophytic plant species.

Critical Aquifer Recharge Area - Areas designated by WAC 365-190-080(2) that are determined to have a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2).

Critical Areas - Critical areas include any of the following areas or ecosystems: aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, and wetlands, as defined in RCW 36.70A.

Critical Facility - A facility for which even a slight chance of flooding, inundation, or impact from a hazard event might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, and installations that produce, use, or store hazardous materials or hazardous waste.

Cumulative Impacts or Effects - The combined, incremental effects of human activity on ecological or 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 in a particular place and within a particular time. It is the combination of these effects, and any resulting environmental degradation, that should be the focus of cumulative impact analysis and changes to policies and permitting decisions.

9.15.040

D

Delineation - Wetland delineation establishes the existence (location) and physical limits (size) of a wetland for the purposes of federal, state, and local regulations.

Developable Area - A site or portion of a site that may be utilized as the location of development, in accordance with the rules of this Chapter.

Development - Any activity upon the land consisting of construction or alteration of structures, earth movement, dredging, dumping, grading, filling, mining, removal of any sand, gravel, or minerals, driving of piles, drilling operations, bulkheading, clearing of vegetation, or other land disturbance. Development includes the storage or use of equipment or materials inconsistent with the existing use. Development also includes approvals issued by the Town that binds land to specific patterns of use, including but not limited to, subdivisions, short subdivisions, zone changes, conditional use permits, and binding site plans. Development activity does not include the following activities:

- a. Interior building improvements;
- b. Exterior structure maintenance activities, including painting and roofing;

BOCC MINUTES-04/01/19

- c. Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning, and weeding; and
- d. Maintenance of the following existing facilities that does not expand the affected area: septic tanks (routine cleaning); wells; individual utility service connections; and individual cemetery plots in established and approved cemeteries.

For the purposes of frequently flooded areas, Development means any man-made 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 or storage of equipment or materials located within the area of special flood hazard.

Development Permit - Any permit issued by the Town, or other authorized agency, for construction, land use, or the alteration of land.

Ditch. Any channel that has been specifically dug to facilitate drainage.

9.15.050

E

Elevated Building - A building that has no basement and its lowest elevated floor is raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

Enhancement - The manipulation of the physical, chemical, or biological characteristics of a wetland to heighten, intensify or improve specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement results in a change in wetland function(s) and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres. Examples are planting vegetation, controlling non-native or *invasive species*, and modifying site elevations to alter hydroperiods.

Erosion - The process whereby wind, rain, water, and other natural agents mobilize and transport particles.

Erosion Hazard Areas - At least those areas identified by the U.S. Department of Agriculture National Resources Conservation Service as having a "severe" rill and inter-rill erosion hazard.

Existing and Ongoing Agricultural Activities - Those activities conducted on lands defined in RCW 84.34.020(2), and those activities involved in the production of crops and livestock, including but not limited to operation, maintenance and conservation measures of farm and stock ponds or drainage ditches, irrigation systems, between agricultural activities, and normal operation, maintenance or repair of existing serviceable structures, facilities or improved areas. New activities which bring an area into agricultural use are not part of an ongoing activity. An operation ceases to be ongoing when the area in which it was conducted is proposed for conversion to a nonagricultural use or has lain idle for a period of longer than five years, unless the idle land is registered in a federal or state soils conversation program. Forest practices are not included in this definition.

Exotic - Any species of plants or animals, which are foreign to the planning area.

9.15.060

F

FEMA - Federal Emergency Management Agency. The agency that oversees the administration of the National Flood Insurance Program.

Fish and Wildlife Habitat Conservation Areas - Fish and wildlife habitat conservation areas are:

- a. Areas that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors; and areas with high relative population density or species richness. Counties and cities may also designate locally important habitats and species.
- b. Habitats of local importance" designated as fish and wildlife habitat conservation areas include those areas found to be locally important by counties and cities.
- c. Fish and wildlife habitat conservation areas" does 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.

Fish Habitat - Habitat that is used by fish at any life stage at any time of the year, including potential habitat likely to be used by fish that could be recovered by restoration or management and includes off-channel habitat.

Flood or Flooding - A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters and/or the unusual and rapid accumulation of runoff of surface waters from any source.

Flood Insurance Map - The official map on which the Federal Insurance Administration has delineated the areas of special flood hazards and include the risk premium zones applicable to the community. Also known as "flood insurance rate map" or "FIRM."

Flood Insurance Study - The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, and the water surface elevation of the base flood.

Floodplain - The total land area adjoining a river, stream, watercourse, or lake subject to inundation by the base flood.

Flood Protection Elevation - The elevation that is one (1) foot above the base flood elevation.

Flood Resistant Material - Materials designed to be resistant to the impacts associated with flooding and defined and described in detail in the Federal Emergency Management Agency's Technical Bulletin #2-93, 1993 and FEMA publication FEMA-348, Protecting Building Utilities from Flood Damage.

Floodway - The channel of a river or other watercourse and the adjacent land area that must be reserved in order to discharge the base flood without cumulatively increasing the surface water elevation more than one (1) foot. Also known as the "zero rise floodway."

Forested Wetland - A wetland with at least thirty percent (30%) of the surface area covered by woody vegetation greater than twenty (20) feet in height that is at least partially rooted within the wetland.

Frequently Flooded Areas - Lands in the floodplain subject to a one percent (1%) or greater chance of flooding in any given year and those lands that provide important flood storage, conveyance, and attenuation functions, as determined by the Town Council in accordance with WAC 365-190-080(3). Frequently flooded areas perform important hydrologic functions and may present a risk to persons and property. Classifications of frequently flooded areas include, at a minimum, the 100-year floodplain designations of the Federal Emergency Management Agency and the National Flood Insurance Program.

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

9.15.070

G

Geologically Hazardous Areas - Areas that are not suited to development consistent with public health, safety, or environmental standards, because of their susceptibility to erosion, sliding, earthquake, or other geological events as designated by WAC 365-190-080(4). Types of geologically hazardous areas include: erosion, landslide, seismic, mine, and volcanic hazards.

Ground-water - Water in a saturated zone or stratum beneath the surface of land or a surface water body.

Ground-water, Perched - Ground water in a saturated zone is separated from the underlying main body of ground water by an unsaturated rock zone.

Growth Management Act - RCW 36.70A and 36.70B, as amended.

9.15.080

H

Habitat Conservation Areas - Areas designated as fish and wildlife habitat conservation areas.

Habitats of Local Importance - These areas include a seasonal range or habitat element with which a given species has a primary association, and which, if altered may reduce the likelihood that the species will maintain and reproduce over the long-term. These might include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors. These might also include habitats that are of limited availability or high vulnerability to alterations such as cliffs, talus, and wetlands. (WAC 365-190-030)

Hazard Areas - Areas designated as frequently flooded areas or geologically hazardous areas due to potential for erosion, landslide, seismic activity, mine collapse, or other geological condition.

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

Hazardous Waste - all dangerous and extremely hazardous waste, including substances composed of both radioactive and hazardous components.

Hydraulic Project Approval (HPA) - A permit issued by the Washington Department of Fish and Wildlife for modifications to waters of the state in accordance with Chapter 75.20 RCW.

Hydric Soil - A soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of hydric soil shall be determined following the methods described in accordance with WAC 173-22-035 as revised.

9.15.090

I

Impervious Surface - Any alterations to the surface of a soil that prevents or retards the entry of water into it compared to its undisturbed condition, or any reductions in infiltration that cause water to run off the surface in greater quantities or at an increased rate of flow compared to that present prior to development. Common impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled macadam or other surfaces which similarly impede the natural infiltration of stormwater.

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

In-Lieu-Fee Program - An agreement between a regulatory agency (state, federal, or local) and a single sponsor, generally a public agency or non-profit organization. Under an in-lieu-fee agreement, the mitigation sponsor collects funds from an individual or a number of individuals who are required to conduct compensatory mitigation required under a wetland regulatory program. The sponsor may use the funds pooled from multiple permittees to create one or a number of sites under the authority of the agreement to satisfy the permittees' required mitigation.

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

Inter-Rill - Areas subject to sheet wash.

Isolated Wetlands - Those wetlands that are outside of and not contiguous to any 100-year floodplain of a lake, river, or stream and have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water, including other wetlands.

9.15.100

J

Joint Aquatic Resource Permits Application (JARPA) - A single application form that may be used to apply for hydraulic project approvals, shoreline management permits, approvals of exceedance of water quality standards, water quality certifications, Coast Guard bridge permits, Washington State Department of Natural Resources use authorization, and U.S. Army Corps of Engineers permits.

Jurisdictional Wetland - A wetland that is regulated by the provisions of the law under the jurisdiction of one or more federal, state, or local agencies. Not all areas of the landscape that have the biological characteristics of wetlands are regulated or jurisdictional wetlands. Compare to biological wetland.

9.15.110

K (reserved)

9.15.120

L

Lahars - Mudflows and debris flows originating from the slopes of a volcano.

Landslide Hazard Areas - Areas that are potentially subject to risk of mass movement due to a combination of geologic landslide resulting from a combination of geologic, topographic, and hydrologic factors. These areas are typically susceptible to landslides because of a combination of factors including: bedrock, soil, slope gradient, slope aspect, geologic structure, ground water, or other factors.

Lowest Floor - 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 non-elevation design requirements of this ordinance found at Section 13.100.070(C)(1)(b), (i.e. provided there are adequate flood ventilation openings).

9.15.130

M

Mature Forested Wetland - A wetland where at least one acre of the wetland surface is covered by woody vegetation greater than 20 feet in height with a crown cover of at least 30 percent and where at least 8 trees/acre are 80 to 200 years old OR have average diameters (dbh) exceeding 21 inches (53 centimeters) measured from the uphill side of the tree trunk at 4.5 feet up from the ground.

Mitigation - Avoiding, minimizing, or compensating for adverse critical areas impacts. Mitigation, in the following sequential order of preference, is:

- a. Avoiding the impact altogether by not taking a certain action or parts of an action;
- b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;
- c. Rectifying the impact to wetlands, critical aquifer recharge areas, and habitat conservation areas by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project;
- d. Minimizing or eliminating a hazard by restoring or stabilizing the hazard area through engineered or other methods;
- e. Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action;
- f. Compensating for the impact to wetlands, critical aquifer recharge areas, and habitat conservation areas by replacing, enhancing, or providing substitute resources or environments; and
- g. Monitoring the hazard or other required mitigation and taking remedial action when necessary. Mitigation for individual actions may include a combination of the above measures.

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

9.15.140

N

Native Vegetation - Plant species that occur naturally in a particular region or environment and were not introduced by human activities.

9.15.150

O

Off-Site Compensation - To replace critical areas away from the site on which a critical area has been impacted.

On-Site Compensation - To replace critical areas at or adjacent to the site on which a critical areas has been impacted.

Ordinary High Water Mark - That mark which is found by examining the bed and banks of water bodies and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department: PROVIDED, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining fresh water shall be the line of mean high water.

9.15.160

P

Permeability - The capacity of an aquifer or confining bed to transmit water. It is a property of the aquifer or confining bed and is independent of the force causing movement.

Porous Soil Types - Soils, as identified by the National Resources Conservation Service, U.S. Department of Agriculture, that contain voids, pores, interstices, or other openings which allow the passing of water.

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

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

Project Area - All areas within fifty (50) feet of the area proposed to be disturbed, altered, or used by the proposed activity or the construction of any proposed structures. When the action binds the land, such as a subdivision, short subdivision, binding site plan, planned unit development, or rezone, the project area shall include the entire parcel, at a minimum.

9.15.170

Q

Qualified Professional - A person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology, or related field, and have at least five years of related work experience.

- a. A qualified professional for wetlands must be a professional wetland scientist with at least two years of full-time work experience as a wetlands professional, including delineating wetlands using the state or federal manuals, preparing wetlands reports, conducting function assessments, and developing and implementing mitigation plans;
- b. A qualified professional for habitat must have a degree in biology or a related degree and professional experience related to the subject species;
- c. A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the state of Washington;
- d. A qualified professional for critical aquifer recharge areas means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments.

9.15.180

R

RCW 36.70A Growth Management Act - Enacted by the Washington State Legislature to express the public's interest in the conservation and the wise use of our lands by protecting the environment and enhancing the state's high quality of life, including air and water quality, and the availability of water.

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

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

Repair or Maintenance - An activity that restores the character, scope, size, and design of a serviceable area, structure, or land use to its previously authorized and undamaged condition. Activities that change the character, size, or scope of a project beyond the original design and drain, dredge, fill, flood, or otherwise alter critical areas are not included in this definition.

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

- a. Active steps taken to restore damaged wetlands, streams, protected habitat, or their buffers to the functioning condition that existed prior to an unauthorized alteration; and
- b. Actions performed to re-establish structural and functional characteristics of the critical area that have been lost by alteration, past management activities, or catastrophic events.

Riparian Area - Areas adjacent to aquatic systems with flowing water that contain elements of both aquatic and terrestrial ecosystems that mutually influence each other. The width of these areas extends to that portion of the terrestrial landscape that directly influences the aquatic ecosystem by providing shade, fine or large woody material, nutrients, organic and inorganic debris, terrestrial insects, or habitat for riparian-associated wildlife. Widths shall be measured from the ordinary high water mark or from the top of the bank if the ordinary high water mark cannot be identified. It includes the entire extent of the floodplain and the extent of vegetation adapted to wet conditions as well as adjacent upland plant communities that directly influence the stream system. Riparian habitat areas include those riparian areas severely altered or damaged due to human development activities.

Recharge - The process involved in the absorption and addition of water to ground water.

Rills - Steep-sided channels resulting from accelerated erosion. A rill is generally a few inches deep and not wide enough to be an obstacle to farm machinery. Rill erosion tends to occur on slopes, particularly steep slopes with poor vegetative cover.

9.15.190

S

Scientific Process - A valid scientific process is one that produces reliable information useful in understanding the consequences of a decision. The characteristics of a valid scientific process are as follows:

- a. Peer Review. The information has been critically reviewed by other qualified scientific experts in that scientific discipline;
- b. Methods. The methods that were used are standardized in the pertinent scientific discipline or the methods have been appropriately peer-reviewed to ensure their reliability and validity;
- c. Logical Conclusions and Reasonable Inferences. The conclusions presented are based on reasonable assumptions supported by other studies and are logically and reasonably derived from the assumptions and supported by the data presented;
- d. Quantitative Analysis. The data have been analyzed using appropriate statistical or quantitative methods;
- e. Context. The assumptions, analytical techniques, data, and conclusions are appropriately framed with respect to the prevailing body of pertinent scientific knowledge;
- f. References. The assumptions, techniques, and conclusions are well referenced with citations to pertinent existing information.

Seeps - A spot where water oozes from the earth, often forming the source of a small stream.

Seismic Hazard Areas - Areas that are subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, or soil liquefaction.

SEPA - Washington State Environmental Policy Act, Chapter 43.21C RCW.

Soil Survey - The most recent soil survey for the local area or county by the National Resources Conservation Service, U.S. Department of Agriculture.

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

Species, Endangered - Any wildlife species native to the state of Washington that is seriously threatened with extinction throughout all or a significant portion of its range within the state (WAC 232-12-297, Section 2.4).

Species of Local Importance - Those species of local concern designated by the Town due to their population status or their sensitivity to habitat manipulation.

Species, Priority - Any fish or wildlife species requiring protective measures and/or management guidelines to ensure its persistence at genetically viable population levels as classified by the Washington Department of Fish and Wildlife, including endangered, threatened, sensitive, candidate and monitor species, and those of recreational, commercial, or tribal importance.

Species, Threatened - Any wildlife species native to the state of Washington that is likely to become an endangered species within the foreseeable future throughout a significant portion of its range within the state without cooperative management or removal of threats (WAC 232-12-297, Section 2.5).

Species, Sensitive - Any wildlife species native to the state of Washington that is vulnerable or declining and is likely to become endangered or threatened throughout a significant portion of its range within the state without cooperative management or removal of threats (WAC 232-12-297, Section 2.6).

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

Structures - a walled and roofed building, including a gas or liquid storage tank that is principally above ground.

Substantial Damage - means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement - means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

1. Before the improvement or repair is started; or
2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term can exclude:

1. Any project for improvement of a structure to correct pre-cited existing violations of state or local health, sanitary, or safety code specifications which have been previously identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

9.15.200

T (reserved)

9.15.210

U

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

9.15.220

V

Vernal Pools - Vernal pool ecosystems are formed when small depressions in the scabrock or in shallow soils fill with snowmelt or spring rains.

9.15.230

W

Washington Administration Code (WAC) - Administrative guidelines implementing the Growth Management Act, WAC 365-190 and WAC 365-195, as amended.

Wellhead Protection Area (WHPA) - the portion of a well's, wellfield's or spring's zone of contribution defined using WHPA criteria established by the department.

Wetlands - Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.

Wetland Buffer - An area contiguous to and which protects a critical area that is required for the continual maintenance, functioning, and/or structural stability of a critical area.

Wetland Mitigation Bank - A site where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing advance mitigation to compensate for future, permitted impacts to similar resources.

Wetland Mosaic - An area with a concentration of multiple small wetlands, in which each patch of wetland is less than one acre; on average, patches are less than 100 feet from each other; and areas delineated as vegetated wetland are more than 50% of the total area of the entire mosaic, including uplands and open water.

Wetlands With a High Conservation Value - Wetlands that are identified by scientists of the Washington Natural Heritage Program/DNR as high quality, relatively undisturbed wetlands, or wetlands that support state Threatened, or Endangered plant species are Category I wetlands.

9.15.240

X (reserved)

9.15.250

Y (reserved)

9.15.260

Z (reserved)

SECTION 9.20 APPLICABILITY, EXEMPTIONS, AND EXCEPTIONS

9.20.010 – Applicability

- A. The provisions of this Chapter shall apply to all lands, all land uses and development activity, and all structures and facilities in the County, whether or not a permit or authorization is required, and shall apply to every person, firm, partnership, corporation, group, governmental agency, or other entity that owns, leases, or administers land within the County. No person, company, agency, or applicant shall alter a critical area or buffer except as consistent with the purposes and requirements of this Chapter.
- B. The County shall not approve any 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, without first ensuring compliance with the requirements of this Chapter, including, but not limited to, the following: building permit, clearing and grading permit, forest practices permit, conditional use permit, shoreline conditional use permit, shoreline substantial development permit, shoreline exemption, shoreline variance, short subdivision, subdivision, planned unit development, binding site plan, zoning variance, zoning code amendment, or any other adopted permit or required approval not expressly exempted by this Chapter.
- C. Approval of a permit or development proposal pursuant to the provisions of this Chapter does not discharge the obligation of the applicant to comply with the provisions of this Chapter.

9.20.020 – Exemptions

- A. **Exemption Request and Review Process.** The proponent of the activity may submit a written request for exemption to the County Planner that describes the activity and states the exemption listed in this Section that applies. The County Planner shall review the exemption request to verify that it complies with this ~~Chapter~~ Section and approve or deny the exemption. If the exemption is approved, it shall be placed on file with the Planning Department. If the exemption is denied, the proponent may continue in the review process and shall be subject to the requirements of this Chapter.
- B. **Exempt Activities and Impacts to Critical Areas.** All exempted activities shall use reasonable methods to avoid potential 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.
- C. **Exempt Activities.** 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:
 - 1. **Emergencies.** 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.

Emergency actions that create an impact to a critical area or its buffer shall use reasonable methods to address the emergency; in addition, they must have the least possible impact to the critical area or its buffer. The person or agency undertaking such action shall notify the County within one (1) working day following commencement of the emergency activity. Within

thirty (30) days, the County Planner shall determine if the action taken was within the scope of the emergency actions allowed in this Subsection. If the County Planner determines that the action taken, or any part of the action taken, was beyond the scope of an allowed emergency action, then enforcement provisions of Unauthorized Alterations and Enforcement (Section 9.50.010) shall apply.

After the emergency, the person or agency undertaking the action shall fully fund and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers resulting from the emergency action in accordance with an approved critical area report and mitigation plan. The person or agency undertaking the action shall apply for review, and the alteration, critical area report, and mitigation plan shall be reviewed by the County in accordance with the review procedures contained herein. Restoration and/or mitigation activities must be initiated within one (1) year of the date of the emergency, and completed in a timely manner.

2. **Operation, Maintenance, or Repair.** Operation, maintenance, or repair of existing structures, infrastructure improvements, utilities, public or private roads, dikes, levees, or drainage systems, 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 operation, maintenance, or repair. Operation and maintenance includes vegetation management performed in accordance with best management practices that is part of ongoing maintenance of structures, infrastructure, or utilities, provided that such management actions are part of regular and ongoing maintenance, do not expand further into the critical area, are not the result of an expansion of the structure or utility, and do not directly impact an endangered or threatened species.
3. **Passive Outdoor Activities.** Recreation, education, and scientific research activities that do not degrade the critical area, including fishing, hiking, and bird watching. Trails must be constructed pursuant to Public and Private Pedestrian Trails [Section 9.25.010 (C) (5)]; and
4. **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 the County's jurisdiction, provided that forest practice conversions are not exempt.
5. **All Existing and Ongoing Agricultural Activities.** Existing and ongoing agricultural activities as defined in RCW 84.34.020(2) and Section 9.15.050 of the Definitions section are exempt from this Chapter. Any disturbance of a FEMA-regulated floodplain is not exempted, if agricultural activities cease then that land would be subject to this ordinance.
6. Artificial wetlands such as, but not limited to, stormwater ponds, county and state roadside ditches and irrigation ditches are exempt from this Chapter.

9.20.030 – Public Agency and Utility Exception

- A. If the application of this Chapter would prohibit a development proposal by a public agency or public utility, the agency or utility may apply for an exception pursuant to this Section.
- B. **Exception Request and Review Process.** An application for a public agency and utility exception shall be made to the County and shall include a written explanation stating the reason(s) for an exception; a critical area report, including mitigation plan, if necessary; and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (Chapter 43.21C RCW). The County Planner shall prepare a recommendation to the Board of Adjustment or Hearing Examiner based on review of the submitted information, a site inspection

if necessary, and the proposal's ability to comply with public agency and utility exception review criteria in Subsection (D).

- C. **Hearing Body/Examiner Review.** The Board of Adjustment or Hearing Examiner shall review the application and the County Planner's recommendation, and conduct a public hearing pursuant to the provisions of the applicable County code. The Board of Adjustment or Hearing Examiner shall approve, approve with conditions, or deny the request based on the proposal's ability to comply with all of the public agency and utility exception criteria in Subsection (D).
- D. **Public Agency and Utility Review Criteria.** The criteria for review and approval of public agency and utility exceptions follow:
 - 1. There is no other practical alternative to the proposed development with less impact on the critical areas;
 - 2. The application of this Chapter would unreasonably restrict the ability to provide utility services to the public;
 - 3. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
 - 4. The proposal attempts to protect and mitigate impacts to the critical area functions and values consistent with the best available science; and
 - 5. The proposal is consistent with other applicable regulations and standards.
- E. **Burden of Proof.** The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.

9.20.040 – Reasonable Use Exception

- A. If the application of this Chapter would deny all reasonable economic use of the subject property, the County shall determine if compensation is an appropriate action, or the property owner may apply for an exception pursuant to this Section.
- B. **Exception Request and Review Process.** An application for a reasonable use exception shall be made to the County and shall include a written explanation stating the reason(s) for an exception; critical area report, including mitigation plan, if necessary; and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (Chapter 43.21C RCW) (SEPA documents). The County Planner shall prepare a recommendation to the Board of Adjustment or Hearing Examiner based on review of the submitted information, a site inspection if necessary, and the proposal's ability to comply with reasonable use exception criteria in Subsection (D).
- C. **Hearing Body/Examiner Review.** The Board of Adjustment or Hearing Examiner shall review the application and conduct a public hearing pursuant to the provisions of the applicable County code. The Board of Adjustment or Hearing Examiner shall approve, approve with conditions, or deny the request based on the proposal's ability to comply with all of the reasonable use exception review criteria in Subsection (D).
- D. **Reasonable Use Review Criteria.** Criteria for review and approval of reasonable use exceptions follow, one or more may apply:
 - 1. The application of this Chapter would deny all reasonable economic use of the property;
 - 2. No other reasonable economic use of the property has less impact on the critical area;
 - 3. The proposed impact to the critical area is the minimum necessary to allow for reasonable economic use of the property;

4. The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant after the effective date of this Chapter, or its predecessor;
5. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
6. The proposal will result in no net loss of critical area functions and values consistent with the best available science; or
7. The proposal is consistent with other applicable regulations and standards.

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

SECTION 9.25 ALLOWED ACTIVITIES

9.25.010 - Allowed Activities

- A. **Critical Area Report.** Activities allowed under this Chapter that ~~shall~~ have been reviewed and permitted or approved by the County or other agency with jurisdiction, but do not require submittal of a separate critical area report, unless such submittal was required previously for the underlying permit. The County Planner may apply conditions to the underlying permit or approval to ensure that the allowed activity is consistent with the provisions of this Chapter to protect critical areas.
- B. **Required Use of Best Management Practices.** All allowed activities shall be conducted using best management practices that result in the least amount of impact to the critical areas. Best management practices shall be used for tree and vegetation protection, construction management, erosion and sedimentation control, water quality protection, and regulation of chemical applications. The County shall observe the use of best management practices to ensure that the activity does not result in degradation to the critical area. Any incidental damage to, or alteration of a critical area shall be restored, rehabilitated, or replaced at the responsible party's expense.
- C. **Allowed Activities.** The following activities are allowed:
1. **Permit Requests Subsequent to Previous Critical Area Review.** Development permits and approvals that involve both discretionary land use approvals (such as subdivisions, rezones, or conditional use permits), and construction approvals (such as building permits) if all of the following conditions have been met:
 - a. The provisions of this Chapter have been previously addressed as part of another approval;
 - b. There have been no material changes in the potential impact to the critical area or buffer since the prior review;
 - c. There is no new information available that is applicable to any critical area review of the site or particular critical area;
 - d. The permit or approval has not expired or, if no expiration date, no more than five years has elapsed since the issuance of that permit or approval; and
 - e. Compliance with any standards or conditions placed upon the prior permit or approval has been achieved or secured.
 2. **Modification to Existing Structures.** Structural modification of, addition to, or replacement of an existing legally constructed structure that does not further alter or increase the impact to the critical area or buffer and there is no increased risk to life or property as a result of the proposed modification or replacement, provided that restoration of structures

substantially damaged by fire, flood, or act of nature must be initiated within one (1) year of the date of such damage, as evidenced by the issuance of a valid building permit, and diligently pursued to completion.

3. **Activities within the Improved Right-of-Way.** Replacement, modification, installation, or construction of utility facilities, lines, pipes, mains, equipment, or appurtenances, not including substations, when such facilities are located within the improved portion of the public right-of-way or a County authorized private roadway except those activities that alter a wetland or watercourse, such as culverts or bridges, or result in the transport of sediment or increased stormwater; subject to the following:
 - a. Critical area and/or buffer widths shall be increased, where possible, equal to the width of the right-of-way improvement, including disturbed areas; and
 - b. Retention and replanting of native vegetation shall occur wherever possible along the right-of-way improvement and resulting disturbance.
4. **Minor Utility Projects.** Utility projects which have minor or short-duration impacts to critical areas, as determined by the County Planner in accordance with the criteria below, and which do not significantly impact the function or values of a critical area(s), provided that such projects are constructed with best management practices and additional restoration measures are provided. Minor activities shall not result in the transport of sediment or increased stormwater. Utilities crossing under or over streams may require an HPA from the Washington Department of Fish and Wildlife. Such allowed minor utility projects shall meet the following criteria:
 - a. There is no practical alternative to the proposed activity with less impact on critical areas
 - b. The activity involves the placement of a utility pole, street signs, anchor, or vault or other small component of a utility facility; and
 - c. The activity involves disturbance of an area less than 75 square feet.
5. **Public and Private Pedestrian Trails.** Public and private pedestrian trails, except in wetlands, fish and wildlife habitat conservation areas, or their buffers, subject to the following:
 - a. Critical area and/or buffer widths shall be increased, where possible, equal to the width of the trail corridor, including disturbed areas; and
 - b. Trails proposed to be located in landslide or erosion hazard areas shall be constructed in a manner that does not increase the risk of landslide or erosion and in accordance with an approved geotechnical report.
6. **Select Vegetation Removal Activities.** The following vegetation removal activities, provided that no vegetation shall be removed from a critical area or its buffer without approval from the County Planner:
 - a. The removal of invasive and noxious weeds as listed by the Whitman County Weed Department with hand labor and light equipment.
 - b. The removal of trees from critical areas and buffers that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private property, provided that:
 - i. The applicant submits a report from a certified arborist, registered landscape architect, or professional forester that documents the hazard and provides a replanting schedule for the replacement trees;
 - ii. Tree cutting shall be limited to pruning and crown thinning, unless otherwise justified by a qualified professional. Where pruning or crown thinning is not

- sufficient to address the hazard, trees should be removed or converted to wildlife snags;
- iii. All vegetation cut (tree stems, branches, etc.) shall be left within the critical area or buffer unless removal is warranted due to the potential for disease or pest transmittal to other healthy vegetation;
 - iv. The landowner shall replace any trees that are removed with new trees at a ratio of two replacement trees for each tree removed (2:1) within one (1) year in accordance with an approved restoration plan. Replacement trees may be planted at a different nearby location if it can be determined that planting in the same location would create a new hazard or potentially damage the critical area. Replacement trees shall be species that are native and indigenous to the site and a minimum of one (1) inch in diameter-at-breast height (dbh) for deciduous trees and a minimum of six (6) feet in height for evergreen trees as measured from the top of the root ball;
 - v. If a tree to be removed provides critical habitat, such as an eagle perch, a qualified wildlife biologist shall be consulted to determine timing and methods of removal that will minimize impacts; and
 - vi. Hazard trees determined to pose an imminent threat or danger to public health or safety, to public or private property, or of serious environmental degradation may be removed or pruned by the landowner prior to receiving written approval from the county provided that within fourteen (14) days following such action, the landowner shall submit a restoration plan that demonstrates compliance with the provisions of this Chapter.
- c. Measures to control a fire or halt the spread of disease or damaging insects consistent with the state Forest Practices Act; Chapter 76.09 RCW, provided that the removed vegetation shall be replaced in-kind or with similar native species within one (1) year in accordance with an approved restoration plan; and
 - d. Unless otherwise provided, or as a necessary part of an approved alteration, removal of any vegetation or woody debris from a habitat conservation area or wetland shall be prohibited.
7. **Chemical Applications.** The application of herbicides, pesticides, organic or mineral-derived fertilizers, or other hazardous substances, if necessary, as approved by the County, provided that their use shall be restricted in accordance with state Department of Fish and Wildlife Management Recommendations ~~and~~ the regulations of the state Department of Agriculture; the regulations of the state Department of Ecology; and the U.S. Environmental Protection Agency;
8. **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.
9. **Agricultural Ditch Cleaning and Construction.** Historically, agricultural landowners have cleaned out drainages on their property for flood control and cleaned out drain tiles. This practice can continue on all drainages through lands involved in the production of crops or livestock with the exception of FEMA designated floodplains. Any FEMA designated floodplain shall require a floodplain development permit. Enlarging ditches, creating new ditches or

rerouting ditches on lands involved in the production of crops or livestock, including Prior Converted Croplands (PCC) and Farmed Wetlands (FW).

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

SECTION 9.30 CRITICAL AREA PROJECT REVIEW PROCESS

9.30.010 – General Requirements

- A. As part of this review, the County shall:
1. Verify the information submitted by the applicant;
 2. Evaluate the project area and vicinity for critical areas;
 3. Determine whether the proposed project is likely to impact the functions or values of critical areas; and
 4. Determine if the proposed project adequately addresses the impacts and avoids impacts to the critical area associated with the project.
- B. If the proposed project is within 200 feet of a wetland that has not been certified or a habitat conservation area that has been verified, the County shall:
1. Require a critical area report from the applicant that has been prepared by a qualified professional;
 2. Review and evaluate the critical area report;
 3. Determine whether the development proposal conforms to the purposes and performance standards of this Chapter, including the criteria in Review Criteria, Section 9.40.020;
 4. Assess the potential impacts to the critical area and determine if they can be avoided or minimized; and
 5. Determine if any mitigation proposed by the applicant is sufficient to protect the functions and values of the critical area and public health, safety, and welfare concerns consistent with the goals, purposes, objectives, and requirements of this Chapter.

9.30.020 – Critical Area Pre-application Consultation

Any person preparing to submit an application for development or use of land that may be regulated by the provisions of this Chapter shall conduct a consultation meeting with the County Planner prior to submitting an application for development or other approval. At this meeting, the County Planner shall discuss the requirements of this Chapter; provide critical area maps, scientific information, and other source materials; outline the review process; and work with the activity proponent to identify any potential concerns that might arise during the review process, in addition to discussing other permit procedures and requirements.

9.30.030 – Critical Area Identification Process

- A. **Submittal.** Prior to the County's consideration of any proposed activity not found to be exempt under Exemptions (Section 9.20.020) or allowed pursuant to Allowed Activities (Section 9.25.010), the applicant and the Planning Department shall review the critical areas mapping to ascertain if any critical areas are present.
- B. **Site Inspection.** Upon receipt of a project application the County Planner shall, if he/she deems necessary, conduct a site inspection to review critical area conditions on site. The County Planner shall notify the property owner of the inspection prior to the site visit. Reasonable access to the site shall be provided by the property owner for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period.

C. **Critical Area Identification Decision Indicators.**

The County Planner may use the following indicators to assist in determining the need for a critical area report:

1. Indication of a critical area on the County critical areas maps that may be impacted by the proposed activity;
2. Information and scientific opinions from appropriate agencies, including but not limited to the departments of Fish and Wildlife, Natural Resources, and Ecology;
3. Documentation, from a scientific or other reasonable source, of the possible presence of a critical area; or
4. A finding by a qualified professional or a reasonable belief by the County Planner that a critical area may exist on or adjacent to the site of the proposed activity.

D. **Decision on Identification of Critical Areas ~~Form~~.**

1. **No Critical Areas Present.** If after a site visit and review of all pertinent data the County Planner's analysis indicates that the project area is not within or adjacent to a critical area or buffer and that the proposed activity is unlikely to degrade the functions or values of a critical area, then the County Planner shall rule that the critical area review is complete and note in the application file the reasons that no further review is required. A summary of this information shall be included in any staff report or decision on the underlying permit.
2. **Critical Areas Present, But No Impact - Waiver.** If the County Planner determines that there are critical areas within or adjacent to the project area, but that the best available science shows that the proposed activity is unlikely to degrade the functions or values of the critical area, the County Planner may waive the requirement for a critical area report. A waiver may be granted if there is substantial evidence that all of the following requirements will be met:
 - a. There will be no alteration of the critical area or buffer;
 - b. The development proposal will not impact the critical area in a manner contrary to the purpose, intent, and requirements of this Chapter; and
 - c. The proposal is consistent with other applicable regulations and standards.

A summary of this analysis and the findings shall be included in any staff report or decision on the underlying permit.

3. **Critical Areas May Be Affected by Proposal.** If the County Planner determines that a critical area or areas may be affected by the proposal, then the County Planner shall notify the applicant that a critical area report must be submitted prior to further review of the project, and indicate each of the critical area types that should be addressed in the report.

E. **County Planner's Determination Subject to Reconsideration.** A determination regarding the apparent absence of one or more critical areas by the County Planner is not an expert certification regarding the presence of critical areas and the determination is subject to possible reconsideration and reopening if new information is received.

If the applicant wants greater assurance of the accuracy of the critical area review determination, the applicant may choose to hire a qualified professional to provide such assurances.

SECTION 9.35 CRITICAL AREA REPORT

9.35.010 – Critical Area Report Requirements

- A. **Preparation by Qualified Professional.** If required by the County Planner, in accordance with Section 9.30.030(D) (3), the applicant shall submit a critical area report prepared by a qualified professional as defined herein.
- B. **Incorporating of Best Available Science.** The critical area report shall use scientifically valid methods and studies in the analysis of critical area data and field reconnaissance and reference the source of science used. The critical area report shall evaluate the proposal and all probable impacts to critical areas in accordance with the provisions of this Chapter.
- C. **Minimum Report Contents.** At a minimum, the report shall contain the following:
1. The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;
 2. A copy of the site plan for the development proposal including:
 - a. A map to scale depicting critical areas, buffers, the development proposal, and any areas to be cleared; and
 - b. In the case of commercial or industrial development, a description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations. No stormwater plan is required for single-family residential construction.
 3. The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;
 4. Identification and characterization of all critical areas, wetlands, water bodies, and buffers adjacent to the proposed project area;
 5. A statement specifying the accuracy of the report, and all assumptions made and relied upon;
 6. An assessment of the probable cumulative impacts to critical areas resulting from development of the site and the proposed development;
 7. An analysis of site development alternatives including a no development alternative;
 8. A description of reasonable efforts made to apply mitigation sequencing pursuant to Mitigation Sequencing Section 9.05.190 to avoid, minimize, and mitigate impacts to critical areas;
 9. Plans for adequate mitigation, as needed, to offset any impacts, in accordance with Mitigation Plan Requirements Section 9.05.200, including, but not limited to:
 - a. The impacts of any proposed development within or adjacent to a critical area or buffer on the critical area; and
 - b. The impacts of any proposed alteration of a critical area or buffer on the development proposal, other properties and the environment.
 10. A discussion of the performance standards applicable to the critical area and proposed activity;
 11. Any additional information required for the critical area as specified in the corresponding chapter.
- D. Unless otherwise provided, a critical area report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the County Planner.

9.35.020 – Critical Area Report – Mitigation Requirements

- A. The applicant shall avoid all impacts that degrade the functions and values of a critical area or areas. Unless otherwise provided in this Chapter, if alteration to the critical area is unavoidable, all adverse impacts to or from critical areas and buffers resulting from a development proposal or alteration shall be mitigated using the best available science in accordance with an approved critical area report, so as to result in no net loss of critical area functions and values.
- B. Mitigation shall be in-kind and on-site, when possible, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area.
- C. Mitigation shall not be implemented until after County approval of a critical area report that includes a mitigation plan, and mitigation shall be in accordance with the provisions of the approved critical area report.

9.35.030 – Mitigation Sequencing

Applicants shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas. When an alteration to a critical area is proposed, such alteration shall be avoided, minimized, or compensated for in the following sequential order of preference:

- A. Avoiding the impact altogether by not taking a certain action or parts of an action;
- B. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;
- C. Rectifying the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by repairing, rehabilitating, or restoring the affected environment to the historical conditions or the conditions existing at the time of the initiation of the project;
- D. Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods;
- E. Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action;
- F. Compensating for the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by replacing, enhancing, or providing substitute resources or environments; and
- G. Monitoring the hazard or other required mitigation and taking remedial action when necessary.

Mitigation for individual actions may include a combination of the above measures.

9.35.040 – Mitigation Plan Requirements

When mitigation is required, the applicant shall submit for approval by the County a mitigation plan as part of the critical area report. The mitigation plan shall include:

- A. **Environmental Goals and Objectives.** The mitigation plan shall include a written report identifying environmental goals and objectives of the compensation proposed and including:
 - 1. A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the compensation measures, including the site selection criteria; identification of compensation goals; identification of resource functions; and dates for beginning and completion

of site compensation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area;

2. A review of the best available science supporting the proposed mitigation and a description of the report author's experience to date in restoring or creating the type of critical area proposed; and
3. An analysis of the likelihood of success of the compensation project.

B. **Performance Standards.** The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this Chapter have been met.

C. **Detailed Construction Plans.** The mitigation plan shall include written specifications and 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.

These written specifications 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.

D. **Monitoring Program.** The mitigation plan shall include a program for monitoring construction of the compensation project and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring (for example, monitoring shall occur in years 1, 3, 5, and 7 after site construction), 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 compensation project. The compensation 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.

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

9.35.050 – Innovative Mitigation

A. The County may encourage, facilitate, and approve innovative mitigation projects that are based on the best available science. Advance mitigation or mitigation banking are examples of alternative mitigation projects allowed under the provisions of this Section wherein one or more applicants, or an organization with demonstrated capability, may undertake a mitigation project together if it is demonstrated that all of the following circumstances exist:

1. Creation or enhancement of a larger system of critical areas and open space is preferable to the preservation of many individual habitat areas;
2. The group demonstrates the organizational and fiscal capability to act cooperatively;
3. The group demonstrates that long-term management of the habitat area will be provided; and
4. There is a clear potential for success of the proposed mitigation at the identified mitigation site.

- B. Conducting mitigation as part of a cooperative process does not reduce or eliminate the required replacement ratios.

SECTION 9.40 DETERMINATION PROCESS

9.40.010 – Determination

The County Planner shall make a determination as to whether the proposed activity and mitigation, if any, is consistent with the provisions of this Chapter. The County Planner's determination shall be based on the criteria of Review Criteria, Section 9.40.020.

9.40.020 – Review Criteria

- A. Any alteration to a critical area, unless otherwise provided for in this Chapter, shall be reviewed and approved, approved with conditions, or denied based on the proposal's ability to comply with all of the following criteria:
1. The proposal minimizes the impact on critical areas in accordance with Mitigation Sequencing, Section 9.35.030;
 2. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
 3. The proposal is consistent with the general purposes of this Chapter and the public interest;
 4. Any alterations permitted to the critical area are mitigated in accordance with Mitigation Requirements, Section 9.35.020;
 5. The proposal protects the critical area functions and values consistent with the best available science and results in no net loss of critical area functions and values; and
 6. The proposal is consistent with other applicable regulations and standards.
- B. The County may condition the proposed activity as necessary to mitigate impacts to critical areas and to conform to the standards required by this Chapter.
- C. Except as provided for by this Chapter, any project that cannot adequately mitigate its impacts to critical areas in the sequencing order of preferences in Section 9.35.030 shall be denied.

9.40.030 – Favorable Determination

If the County Planner determines that the proposed activity meets the criteria in Review Criteria, Section 9.40.020 and complies with the applicable provisions of this Chapter, the County Planner shall prepare a written notice of determination and identify any required conditions of approval. The notice of determination and conditions of approval shall be included in the project file and be considered in the next phase of the County's review of the proposed activity in accordance with any other applicable codes or regulations.

Any conditions of approval included in a notice of determination shall be attached to the underlying permit or approval. Any subsequent changes to the conditions of approval shall void the previous determination pending re-review of the proposal and conditions of approval by the County Planner.

A favorable determination should not be construed as endorsement or approval of any underlying permit or approval.

9.40.040 – Unfavorable Determination

If the County Planner determines that a proposed activity does not adequately mitigate its impacts on the critical areas and/or does not comply with the criteria in Review Criteria, Section 9.40.020 and the provisions of this Chapter, the County Planner shall prepare written notice of the determination that includes findings of noncompliance.

No proposed activity or permit shall be approved or issued if it is determined that the proposed activity does not adequately mitigate its impacts on the critical areas and/or does not comply with the provisions of this Chapter.

Following notice of determination that the proposed activity does not meet the review criteria and/or does not comply with the applicable provisions of this Chapter, the applicant may request consideration of a revised critical area report. If the revision is found to be substantial and relevant to the critical area review, the County Planner may reopen the critical area review and make a new determination based on the revised report.

9.40.050 - Completion of the Critical Area Review

The County's administrative determination regarding critical areas pursuant to this Chapter shall be final concurrent with the final decision to approve, condition, or deny the development proposal or other activity involved.

9.40.060 - Appeals

Any decision to approve, condition, or deny a development proposal or other activity based on the requirements of this Chapter may be appealed to the Board of Adjustment according to the provisions set out in Whitman County Code Section 19.05.030.

9.45.010 - Variances

- A. Variances from the standards of this Chapter may be authorized by the County in accordance with the procedures set forth in Section 19.06 of the Whitman County Code. The Board of Adjustment shall review the request and make a written finding that the request meets or fails to meet the variance criteria.
- B. **Variance Criteria.** A variance may be granted only if the applicant demonstrates that the requested action conforms to all of the criteria set forth as follows:
1. Special conditions and circumstances exist that are peculiar to the land, the lot, or something inherent in the land, and that are not applicable to other lands in the same district;
 2. The special conditions and circumstances do not result from the actions of the applicant;
 3. A literal interpretation of the provisions of this Chapter would deprive the applicant of all reasonable economic uses and privileges permitted to other properties in the vicinity and zone of the subject property under the terms of this Chapter, and the variance requested is the minimum necessary to provide the applicant with such rights;
 4. Granting the variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, structures, or buildings under similar circumstances;
 5. The granting of the variance is consistent with the general purpose and intent of this Chapter, and will not further degrade the functions or values of the associated critical areas or otherwise be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the subject property;
 6. The decision to grant the variance includes the best available science and gives special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish habitat; and
 7. The granting of the variance is consistent with the general purpose and intent of the Whitman County Comprehensive Plan and adopted development regulations.
- C. **Conditions May Be Required.** In granting any variance, the County may prescribe such conditions and safeguards as are necessary to secure adequate protection of critical areas from adverse impacts, and to ensure conformity with this Chapter.

- D. **Time Limit.** The County shall prescribe a time limit within which the action for which the variance is required shall be begun, completed, or both. Failure to begin or complete such action within the established time limit shall void the variance.
- E. **Burden of Proof.** The burden of proof shall be on the applicant to bring forth evidence in support of the application and upon which any decision has to be made on the application.

SECTION 9.50 UNAUTHORIZED ALTERATIONS AND ENFORCEMENT

9.50.010 – Unauthorized Critical Area Alterations and Enforcement

- A. When a critical area or its buffer has been altered in violation of this Chapter, all ongoing development work shall stop and the critical area shall be restored. The County 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 County. Such a plan shall be prepared by a qualified professional using the best available science and shall describe how the actions proposed meet the minimum requirements described in Subsection (C). The County Planner shall, at the violator's expense, seek expert advice in determining the adequacy of the plan. Inadequate plans shall be returned to the applicant or violator for revision and resubmittal.
- C. **Minimum Performance Standards for Restoration**
 - 1. For alterations to critical aquifer recharge areas, frequently flooded areas, wetlands, and habitat conservation areas, the following minimum performance standards shall be met for the restoration of a critical area, provided that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:
 - a. The historic structural and functional values shall be restored, including water quality and habitat functions;
 - b. The historic soil types and configuration shall be replicated;
 - c. The critical area and buffers shall be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities. The historic functions and values should be replicated at the location of the alteration; and
 - d. Information demonstrating compliance with the requirements in Section 9.35.040 – Mitigation Plan Requirements, shall be submitted to the County Planner.
 - 2. For alterations to flood and geological hazards, the following minimum performance standards shall be met for the restoration of a critical area, provided that, if the violator can demonstrate that greater safety can be obtained, these standards may be modified:
 - a. The hazard shall be reduced to a level equal to, or less than, the pre-development hazard;
 - b. Any risk of personal injury resulting from the alteration shall be eliminated or minimized; and
 - c. The hazard area and buffers shall be replanted with native vegetation sufficient to minimize the hazard.
- D. **Site Investigations.** The County Planner is authorized to make site inspections and take such actions as are necessary to enforce this Chapter. The County Planner shall present proper credentials and make a reasonable effort to contact any property owner before entering onto private property.

E. **Penalties.** Any person, party, firm, corporation, or other legal entity convicted of violating any of the provisions of this Chapter shall be guilty of a misdemeanor. Each day or portion of a day during which a violation of this Chapter is committed or continued shall constitute a separate offense. Any development carried out contrary to the provisions of this Chapter shall constitute a public nuisance and may be enjoined as provided by the statutes of the state of Washington. The County may levy civil penalties against any person, party, firm, corporation, or other legal entity for violation of any of the provisions of this Chapter. The civil penalty shall be assessed at a maximum rate of \$300 dollars per day per violation.

ARTICLE III. SPECIFIC CRITICAL AREAS

SECTION 9.60 WETLANDS

9.60.010 - Purpose

The purposes of this Section are to:

- A. Recognize and protect the beneficial functions performed by many wetlands, which include, but are not limited to, providing food, breeding, nesting and/or rearing habitat for fish and wildlife; recharging and discharging ground water; contributing to stream flow during low flow periods; stabilizing stream banks and shorelines; storing storm and flood waters to reduce flooding and erosion; and improving water quality through biofiltration, absorption, and retention and transformation of sediments, nutrients and toxicants.
- B. Regulate land use to avoid adverse effects on wetlands and maintain the functions and values of wetlands throughout Whitman County.
- C. Establish review procedures for development proposals in and adjacent to wetlands.
- D. Be consistent with the requirements of 36.70A RCW and to implement the goals and policies of the Whitman County Comprehensive Plan for protecting wetlands.

9.60.020 - Identification and Rating

A. Identification and Delineation.

Identification of wetlands and delineation of their boundaries pursuant to this section shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements. All areas within the County meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this Section. Wetlands shall be identified and delineated by a qualified wetland professional in accordance with WAC 173-22-035 as revised. If a wetland report is deemed necessary it will follow the requirements in Section 9.60.060.

A list of approved wetland professionals is available from the planning office. Planning staff primarily uses the National Wetlands Inventory (NWI) maps in the planning office as a basis to identify the location of wetlands in the County. It is possible that the NWI maps are incomplete and do not cover every wetland. Any wetland that conforms to the definition of wetlands in the definitions section of this chapter is covered by this ordinance.

Wetland reports are valid for five (5) years after which the County Planner shall determine whether a revision or additional assessment is necessary.

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- B. Rating. Wetlands shall be rated according to the Washington State Department of Ecology wetland rating system, as set forth in the Washington State Wetland Rating System for Eastern Washington (Ecology Publication #14-06-030, October 2014, or as revised and approved by Ecology), which contains the definitions and methods or determining if the criteria below are met:
1. Category I wetlands are: 1) alkali wetlands; 2) wetlands with high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR; 3) bogs and calcareous fens; 4) mature and old-growth forested wetlands over ¼ acre with slow-growing trees; 5) forests with stands of aspen; and 6) wetlands that perform many functions very well (scores between 22-27 points). These wetlands are those that 1) represent a unique or rare wetland type; or 2) are more sensitive to disturbance than most wetlands; or 3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or 4) provide a high level of function.
 2. Category II wetlands are: 1) forested wetlands in the floodplains of rivers; 2) mature and old-growth forested wetlands over ¼ acre with fast-growing trees; 3) vernal pools; and 4) wetlands that perform functions well (scores between 19-21 points). These wetlands are difficult, though not impossible, to replace, and provide high levels of some functions. These wetlands occur more commonly than Category 1 wetlands, but still need a relatively high level of protection.
 3. Category III wetlands are wetlands with a moderate level of functions (scores between 16-18 points). Wetlands scoring between 16 and 18 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 wetlands have the lowest level of functions (scores fewer than 16 points) and are often heavily disturbed. These are wetlands that we should be able to replace, and in some cases be able to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions and also need to be protected.
- C. Illegal modifications. Wetland rating categories shall not change due to illegal modifications made by the applicant or with the applicant's knowledge.
- D. The requirement for a full delineation and rating may be waived under the following circumstances:
1. After consultation with the department of Ecology, the County Planner may waive the requirement for a wetland report if there is substantial evidence showing that there will be no alteration of the critical area or buffer due to the proposed development.
 2. If the criteria in D1 above is not met then the requirement for a wetland delineation and rating may be waived by the County Planner for any construction if a qualified wetland specialist determines that:
 - a. Sufficient information exists for staff to estimate the boundaries of a wetland without a delineation; and
 - b. The proposed development is not located within the buffer distances identified in Section 9.60.050.

A wetland specialist Recommendation Form shall be submitted to the Whitman County Planning Department documenting the above exceptions, a and b.

9.60.030 – Regulated Activities

- A. For any regulated activity, a critical areas report may be required to support the requested activity.
- B. The following activities are regulated if they occur in a regulated wetland or its buffer:
 - 1. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind. This includes routine maintenance of ditches for flood control in FEMA-mapped special flood hazard areas.
 - 2. The dumping of, discharging of, or filling with any material.
 - 3. The draining, flooding, or disturbing the water level or water table.
 - 4. Pile driving.
 - 5. The placing of obstructions.
 - 6. The construction, reconstruction, demolition, or expansion of any structure.
 - 7. 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.
 - 8. Enlarging ditches, creating new ditches or rerouting ditches on lands involved in the production of crops or livestock, including Prior Converted Croplands (PCC) and Farmed Wetlands (FW).
- C. Subdivisions. The subdivision and/or short subdivision of land in wetlands and associated buffers are subject to the following:
 - 1. Land that is located wholly within a wetland or its buffer may not be subdivided.
 - 2. Land that is located partially within a wetland or its buffer may be subdivided provided that an accessible and contiguous portion of each new lot is:
 - Located outside of the wetland and its buffer: and
 - a. Meets the minimum lot size requirements of Section 19.10.060(B)(2).

9.60.040 – Exemptions and Allowed Uses in Wetlands

- A. Exemptions:
 - 1. Any existing and ongoing agricultural activities will be subject to the Whitman County Voluntary Stewardship Program (VSP). Routine maintenance of drainage ditches on lands involved in the production of crops or livestock, including Prior Converted Croplands (PCC) and Farmed Wetlands (FW), is exempted from this section except when in a FEMA regulated floodplain.
 - 2. Artificial wetlands that were intentionally created from non-wetland sites such as, but not limited to, stormwater ponds, county and state roadside ditches and irrigation ditches are exempt from this section.
 - 3. Small isolated wetlands in arid landscapes often have a higher value and perform greater functions than in other settings. However, in certain circumstances, applying the buffers in Table 9.1 may result in buffer areas greater than that of the wetland being protected. In these instances, the County may consult with the Department of Ecology to determine whether exemptions from mitigation sequencing and/or reduced buffers are warranted.
- B. Activities Allowed in Wetlands and Buffers. The activities listed below are allowed in wetlands. These activities do not require submission of a critical area report, except where such activities result in a loss of the functions and values of a wetland or wetland buffer. These activities include:

1. Those activities and uses conducted pursuant to the Washington State Forest Practices Act and its rules and regulations, WAC 222-12-030, where state law specifically exempts local authority, except those developments requiring local approval for Class 4 - General Forest Practice Permits (conversions) as defined in RCW 76.09 and WAC 222-12.
2. Conservation or preservation of soil, water, vegetation, fish, shellfish, and/or other wildlife that does not entail changing the structure or functions of the existing wetland.
3. 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.
4. Drilling for utilities/utility corridors under a wetland, with entrance/exit portals located completely outside of the wetland buffer, provided that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column will be disturbed.
5. Enhancement of a wetland through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal unless permits from the appropriate regulatory agencies have been obtained for approved biological or chemical treatments. 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 must be handled and disposed of according to a noxious weed control plan appropriate to that species. Re-vegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.
6. Educational and scientific research activities.
7. Normal and routine maintenance and repair of any existing public or private building provided that the maintenance or repair does not expand the footprint of the building toward the wetland. An expansion of the building to the rear, facing away from the wetland is exempt from the buffer and mitigation provisions contained in this Section.
8. Stormwater management facilities. A wetland or its buffer can be physically or hydrologically altered to meet the requirements of an LID, Runoff Treatment or Flow Control BMP if ALL of the following criteria are met:
 - a. The wetland is classified as a Category IV or a Category III wetland with a habitat score of 3-5 points, and
 - b. There will be "no net loss" of functions and values of the wetland, and
 - c. The wetland does not contain a breeding population of any native amphibian species, and
 - d. The hydrologic functions of the wetland can be improved as outlined in questions 3, 4, 5 of Chart 4 and questions 2, 3, 4 of Chart 5 in the "Guide for Selecting Mitigation Sites Using a Watershed Approach," (available here: <http://www.ecy.wa.gov/biblio/0906032.html>); or the wetland is part of a priority restoration plan that achieves restoration goals identified in a Shoreline Master Program or other local or regional watershed plan, and
 - e. The wetland lies in the natural routing of the runoff, and the discharge follows the natural routing, and
 - f. All regulations regarding stormwater and wetland management are followed, including but not limited to local and state wetland and stormwater codes, manuals, and permits, and
 - g. Modifications that alter the structure of a wetland or its soils will require permits. Existing functions and values that are lost would have to be compensated/replaced. Stormwater LID BMPs required as part of

New and Redevelopment projects can be considered within wetlands and their buffers. However, these areas may contain features that render LID BMPs infeasible. A site-specific characterization is required to determine if an LID BMP is feasible at the project site.

9.60.050 – Wetland Buffers

A. Buffer Requirements. The buffer widths in Table 9.1 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 eastern Washington – 2014 Update (Ecology Publication #14-06-030, or as revised and approved by Ecology). The adjacent land use intensity is assumed to be high.

1. For wetlands that score 6 points or more for ~~the~~ habitat functions, the buffers in Table 9.1 can be used if both of the following criteria are met: A relatively undisturbed, vegetated corridor at least 100 feet wide is protected between the wetland and any other Priority Habitats as defined by the Washington State Department of Fish and Wildlife. The latest definitions of priority habitats and their locations are available on the WDFW website at: <http://wdfw.wa.gov/hab/phshabs.htm>). The corridor must be protected for the entire distance between the wetland and the Priority Habitat by some type of legal protection such as a conservation easement. Presence or absence of a nearby habitat must be confirmed by a qualified biologist. If no option for providing a corridor is available, Table 9.1 may be used with the required measures in Table 9.2 alone.
 - a. The measures in Table 9.2 are implemented, where applicable, to minimize the impacts of the adjacent land uses.
2. For wetlands that score 3-5 habitat points, only the measures in Table 9.2 are required for the use of Table 9.1.
3. If an applicant chooses not to apply the mitigation measures in Table 9.2, or is unable to provide a protected corridor where available, then Table 9.3 must be used.
4. The buffer widths in Table 9.1 and 9.3 assume that the buffer is vegetated with a native plant community appropriate for the eco-region. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided.

**Table 9.1 Wetland Buffer Requirements Eastern Washington
If Table 9.2 is Implemented and Corridor Provided**

Wetland Category	Buffer width (in feet) based on habitat score		
	3-5	6-7	8-9
Category I: Based on total score	75	110	150
Category I: Forested	75	110	150
Category I: Bogs and Wetlands of High Conservation Value	190 (buffer width not based on habitat scores)		
Category I: Alkali	150 (buffer width not based on habitat scores)		
Category II: Based on total score	75	110	150
Category II: Vernal pool	150 (buffer width not based on habitat scores)		
Category II: Forested	75	110	150
Category III (all)	60	110	150
Category IV (all)	40		

**Table 9.2 Required measures to minimize impacts to wetlands
(Measures are required, where applicable to a specific proposal)**

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

**Table 9.3 Wetland Buffer Requirements Eastern Washington
If Table 9.2 is NOT Implemented or Corridor NOT Provided**

Wetland Category	Buffer width (in feet) based on habitat score		
	3-5	6-7	8-9
Category I: Based on total score	100	150	200
Category I: Forested	100	150	200
Category I: Bogs and Wetlands of High Conservation Value	250 (buffer width not based on habitat scores)		
Category I: Alkali	200 (buffer width not based on habitat scores)		
Category II: Based on total score	100	150	200
Category II: Vernal pool	200 (buffer width not based on habitat scores)		
Category II: Forested	100	150	200
Category III (all)	80	150	200
Category IV (all)	50		

5. **Increased Wetland Buffer Area Width.** Buffer widths shall be increased on a case-by-case basis as determined by the Director of Public Works or the County Planner when a larger buffer is necessary to protect wetland functions and values. This determination shall be supported by appropriate documentation showing that it is reasonably related to protection of the functions and values of the wetland. The documentation must include but not be limited to the following criteria:
 - a. The wetland is used by a state or federally listed plant or animal species or has essential or outstanding habitat for those species, or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees; or
 - b. The adjacent land is susceptible to severe erosion, and erosion-control measures will not effectively prevent adverse wetland impacts; or
 - c. The adjacent land has minimal vegetative cover or slopes greater than 30 percent.
 6. 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 areas 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 $\frac{3}{4}$ of the required width or 75 feet for Category I and II, 50 feet for Category III and 25 feet for Category IV, whichever is greater.
 7. Averaging to *allow reasonable use* of a parcel may be permitted when all of the following are met:
 - a. There are no feasible alternatives to the site design that 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 areas 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 $\frac{3}{4}$ of the required width or 75 feet for Category I and II, 50 feet for Category III and 25 feet for Category IV, whichever is greater.
- B. **Measurement of Wetland Buffers.** All buffers shall be measured perpendicular from the wetland boundary as surveyed in the field. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland. Buffers must be fully vegetated in order to be included in buffer area calculations. Lawns, walkways, driveways, and other mowed or paved areas will not be considered buffers or included in buffer area calculations.
- C. **Buffers on Mitigation Sites.** All wetland mitigation sites shall have buffers consistent with the buffer requirements of this Section. Buffers shall be based on the expected or target category of the proposed wetland mitigation site.

- D. **Buffer Maintenance.** Except as otherwise specified or allowed in accordance with this Section, 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 (Section 9.60.070 (J) (2) (a) (x)).
- E. **Impacts to Buffers.** Requirements for the compensation for impacts to buffers are outlined in Section 9.60.070.
- F. **Overlapping Critical Area Buffers.** If buffers for two contiguous critical areas overlap (such as buffers for a stream and a wetland), the wider buffer applies.
- G. **Allowed Buffer Uses.** The following uses may be allowed within a wetland buffer in accordance with the review procedures of this Section, 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:
1. Conservation and Restoration Activities. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.
 2. Passive Recreation. Passive recreation facilities designed and in accordance with an approved critical area report, including:
 - a. Walkways and trails, provided that those pathways are limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer twenty-five percent (25%) of the wetland buffer area, and located to avoid removal of significant trees. They should be limited to pervious surfaces no more than five (5) feet in width for pedestrian use only. Raised boardwalks utilizing non-treated pilings may be acceptable.
 - b. Wildlife-viewing structures.
 3. Educational and scientific research activities.
 4. Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way, provided that the maintenance or repair does not increase the footprint or use of the facility or right-of-way.
 5. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.
 6. Drilling for utilities/utility corridors under a buffer, with entrance/exit portals located completely outside of the wetland buffer boundary, provided that the drilling does not interrupt 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 is disturbed.
 7. Enhancement of a wetland buffer through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.
 8. Non-Conforming Uses. Repair and maintenance of non-conforming uses or structures, where legally established within the buffer, provided they do not increase the degree of nonconformity.

H. Signs and Fencing of Wetlands and Buffers.

1. **Temporary Markers.** The outer perimeter of the wetland buffer and the clearing limits identified by an approved permit or authorization shall be marked in the field with temporary "clearing limits" fencing in such a way as to ensure that no unauthorized intrusion will occur. The marking is subject to inspection by the Director of Public Works or the County Planner prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.
2. **Permanent Signs.** As a condition of any permit or authorization issued pursuant to this Section, the Planning Director 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 and attached to a metal post, or another non-treated material of equal durability. Signs must be posted at an interval of one (1) every fifty (50) feet, or one (1) per lot if the lot is less than fifty (50) feet wide and must be maintained by the property owner in perpetuity. The signs shall be worded as follows or with alternative language approved by the County Planner:

**Protected Wetland Area
Do Not Disturb
Contact Whitman County Planning**

- Regarding Uses, Restrictions and Opportunities for Stewardship**
 - b. The provisions of subsection (a) may be modified as necessary to assure protection of sensitive features or wildlife.
3. **Fencing.**
 - a. The County Planner shall determine if fencing is necessary to protect the functions and values of the critical area. If found to be necessary, the County Planner shall condition any permit or authorization issued pursuant to this Chapter to require the applicant to install a permanent fence at the edge of the wetland buffer, when fencing will prevent future impacts to the wetland.
 - 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.

9.60.060 - Critical Area Report for Wetlands

- A. If the Director of Public Works or the County Planner determines that the site of a proposed development includes, is likely to include, or is adjacent to a wetland, 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:
 1. The written report shall include at a minimum:
 - a. The name and contact information of the applicant; the name, qualifications, and contact information for the primary author(s) of the wetland critical area 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, function assessments, baseline hydrologic data, etc.
 - d. A description of the methodologies used to conduct the wetland delineations, wetland ratings, or impact analyses including references.
 - e. Identification and characterization of all critical areas, wetlands, water bodies, shorelines, floodplains, and buffers on or adjacent to the proposed project area. For areas off site of the project site, estimate conditions within 200 feet of the project boundaries using the best available information.
 - f. For each wetland identified on-site and within 200 feet of the project site provide: the wetland rating per Wetland Ratings (Section 9.60.020(B); required buffers; hydrogeomorphic classification; wetland acreage based on a professional survey from the field delineation (acreages for on-site portion and entire wetland area including off-site portions); Cowardin classification of vegetation communities; 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 inlet/outlets (if they can be legally accessed), estimated water depths within the wetland, and estimated hydroperiod patterns based on visual cues (e.g., algal mats, drift lines, flood debris, etc.). Provide acreage estimates, classifications, and ratings based on entire wetland complexes, not only the portion present on the proposed project site.
 - g. A description of the proposed actions including an estimation of acreages of impacts to wetlands and buffers based on the field delineation and survey 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.
 - i. A discussion of measures, including avoidance, minimization, and compensation, proposed to preserve existing wetlands and restore any wetlands that were degraded prior to the current proposed land-use activity.
 - j. A conservation strategy for habitat and native vegetation that addresses methods to protect and enhance on-site habitat and wetland functions.
 - k. An evaluation of the functions of the wetland and adjacent buffer. Include reference for the method used and data sheets.
2. A copy of the site plan sheet(s) for the project must be included with the written report and must include, at a minimum:
- a. Maps (to scale) depicting delineated and surveyed wetland and required buffers on-site, including buffers for off-site critical areas that extend onto the project site; the development proposal; other critical areas; grading and clearing limits; areas of proposed impacts to wetlands and/or buffers (include square footage estimates);
 - b. A depiction of the proposed stormwater management facilities and outlets (to scale) for the development, including estimated areas of intrusion into the buffers of any critical areas. The written report shall contain a discussion of the potential impacts to the wetland(s) associated with anticipated hydroperiod alterations from the project.

9.60.070 – Compensatory Mitigation

- A. Mitigation Sequencing. Before impacting any wetland or its buffer, an applicant shall demonstrate that the following actions have been taken. Actions are listed in the order of preference.
1. Avoid the impact altogether by not taking a certain action or parts of an action.
 2. 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.
 3. Rectify the impact by repairing, rehabilitating, or restoring the affected environment.
 4. Reduce or eliminate the impact over time by preservation and maintenance operations.
 5. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments.
 6. Monitor the required compensation and take remedial or corrective measures when necessary.
- B. **Requirements for Compensatory Mitigation.**
1. Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with *Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1)*, Ecology Publication #06-06-011b, Olympia, WA, March 2006 or as revised, and *Selecting Wetland Mitigation Sites Using a Watershed Approach (Eastern Washington)* (Publication #10-06-07, November 2010).
 2. Mitigation ratios shall be consistent with subsection G of this Section.
 3. Mitigation requirements may also be determined using the credit/debit tool described in *Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Eastern Washington: Final Report* (Ecology Publication #11-06-015, August 2012), consistent with subsection G of this section.
- 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:
1. 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 limiting within a watershed through a formal Washington state watershed assessment plan or protocol; or
 2. Out-of-kind replacement of wetland type or functions will best meet watershed goals formally identified by the County, 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.
1. Wetland mitigation banks. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the mitigation bank instrument. Use of credits from a wetland mitigation bank certified under Chapter 173-700 WAC is allowed if:
 - a. The approval authority determines that it would provide appropriate compensation for the proposed impacts; and
 - b. The impact site is located in the service area of the bank.

- c. The proposed use of credits is consistent with the terms and conditions of the certified mitigation bank instrument.
 - d. Replacement ratios for projects using bank credits is consistent with replacement ratios specified in the certified mitigation bank instrument.
 2. In-Lieu Fee Mitigation: Credits from an approved in-lieu-fee program may be used when all of the following apply:
 - a. The approval authority determines that it would provide environmentally appropriate compensation for the proposed impacts.
 - b. The proposed use of credits is consistent with the terms and conditions of the approved in-lieu-fee program instrument.
 - c. Projects using in-lieu-fee credits shall have debits associated with the proposed impacts calculated by the applicant's qualified wetland professional using the credit assessment method specified in the approved instrument for the in-lieu-fee program.
 - d. The impacts are located within the service area specified in the approved in-lieu-fee instrument.
 3. Permittee-responsible mitigation. In this situation, the permittee performs the mitigation after the permit is issued and is ultimately responsible for implementation and success of the mitigation. Permittee-responsible mitigation may occur at the site of the permitted impacts or at an off-site location within the same watershed. Permittee-responsible mitigation shall be used only if the applicant's qualified wetland professional demonstrates to the approval authority's satisfaction that the proposed approach is ecologically preferable to use of a bank or ILF program, consistent with the criteria in this section.
- E. Types of Compensatory Mitigation. Mitigation for lost or diminished wetland and buffer functions shall rely on a type 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 approval authority's satisfaction that all higher-ranked types of mitigation are not viable, consistent with the criteria in this section.
 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. For the purpose of tracking net gains in wetland acres, restoration is divided into:
 - a. Re-establishment: 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. 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: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or return tidal influence to a wetland.
 2. Establishment (Creation): The manipulation of the physical, chemical, or biological characteristics of a site to develop 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 hydroperiod, create hydric soils, and support 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 approval authority may authorize creation of a wetland and buffer upon demonstration by the applicant's qualified wetland professional that:

- i. The hydrology and soil conditions at the proposed mitigation site are conducive for sustaining the proposed wetland and that creation of a wetland at the site will not likely cause hydrologic problems elsewhere;
 - ii. 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
 - iii. The proposed wetland and buffer will eventually be self-sustaining with little or no long-term maintenance.
3. Enhancement. The manipulation of the physical, chemical, or biological characteristics of a wetland site to heighten, intensify, or improve specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement results in a change in 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 hydroperiods, or some combination of these activities. 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.
4. Protection/Maintenance (Preservation). Removing a threat to, or preventing the decline of, wetland conditions by an action in or near a wetland. This includes the purchase of land or easements, or repairing water control structures or fences. This term also includes activities commonly associated with the term *preservation*. Preservation does not result in a gain of wetland acres. Permanent protection of a Category I or II wetland and associated buffer at risk of degradation can be used only if:
 - a. The approval authority 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 of the watershed or basin due to its location. Some of the following features may be indicative of high-quality sites:
 - i. Category I or II wetland rating (using the wetland rating system for western Washington)
 - ii. Rare or irreplaceable wetland type (for example, bogs, mature forested wetlands, estuarine wetlands) or aquatic habitat that is rare or a limited resource in the area;
 - iii. The presence of habitat for priority or locally important wildlife species; or also list has provides biological and/or hydrological connectivity;
 - iv. Provides biological and/or hydrological connectivity;
 - v. Priority sites in an adopted watershed plan.
 - d. Permanent preservation of the wetland and buffer will be provided through a conservation easement or tract held by an appropriate natural land resource manager, such as a land trust.
 - e. The approval authority may approve other legal and administrative mechanisms in lieu of a conservation easement if it determines they are adequate to protect the site.
 - f. Ratios for preservation in combination with other forms of mitigation generally range from 10:1 to 20:1, as determined on a case-by-case basis, depending on the quality of the wetlands being impacted and the

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

- F. Location of Compensatory Mitigation. Compensatory mitigation actions shall generally be conducted within the same sub-drainage basin and on the site of the alteration except when the applicant can demonstrate that off-site mitigation is ecologically preferable. The following criteria will be evaluated when determining whether the proposal is ecologically preferable. When considering off-site mitigation, preference should be given to using alternative mitigation, such as a mitigation bank, an in-lieu-fee program, or advance mitigation.
1. There are no reasonable opportunities on site or within the sub-drainage basin (e.g., on-site options would require elimination of high-functioning upland habitat), or opportunities on site or within the sub-drainage basin do not have a high likelihood of success based on a determination of the capacity of the site to compensate for the impacts. Considerations should include: anticipated replacement ratios for wetland mitigation, buffer conditions and proposed widths, available water to maintain anticipated hydrogeomorphic classes of wetlands when restored, proposed flood storage capacity, and potential to mitigate riparian fish and wildlife impacts (such as connectivity);
 2. On-site mitigation would require elimination of high-quality upland habitat.
 3. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the altered wetland.
 4. Off-site locations shall be in the same sub-drainage basin unless:
 - a. Established watershed goals for water quality, flood storage or conveyance, habitat, or other wetland functions have been established by the County and strongly justify location of 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;
 - c. Fees are paid to an approved in-lieu fee program to compensate for the impacts.
 5. The design for the compensatory mitigation project needs to be appropriate for its location (i.e., 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 disturb wetlands. At the least, compensatory mitigation shall be completed immediately following disturbance 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.
1. The County Planner 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 (e.g., project delay lapses past a fisheries window, 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 temporary delay must include a written justification that documents the environmental constraints that preclude

implementation of the compensatory mitigation plan. The justification must be verified and approved by the County.

H. **Wetland Mitigation Ratios:**
Table 9.4 Wetland Mitigation Ratios.

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

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 Parts I and II" (Ecology Publication #06-06-011a-b, Olympia, WA, March, 2006), the County Planner ~~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 Eastern Washington: Final Report" (Ecology Publication #11-06-015, August 2012, or as revised).

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

1. Wetland Critical Area Report. A critical area report for wetlands must accompany or be included in the compensatory mitigation plan and include the minimum parameters described in *Minimum Standards for Wetland Reports* (Section 9.60.060B);
2. Compensatory Mitigation Report. The report must include a written report and plan sheets that must contain, at a minimum, the following elements. Full guidance can be found in *Wetland Mitigation in Washington State - Part 2: Developing Mitigation Plans (Version 1)* (Ecology Publication #06-06-011b, Olympia, WA, March 2006 or as revised).
 - a. The written report must contain, at a minimum:
 - i. The name and contact information of the applicant; the name, qualifications, and contact information for the primary author(s) of the compensatory mitigation report; a description of the proposal; a summary of the impacts and proposed compensation concept; identification of all the local, state, and/or federal wetland-related permit(s) required for the project; and a vicinity map for the project;
 - ii. Description of how the project design has been modified to avoid, minimize, or reduce adverse impacts to wetlands;
 - iii. Description of the existing wetland and buffer areas proposed to be impacted. Include acreage (or square footage), water regime, vegetation, soils, landscape position, surrounding lands uses, and functions. Also describe impacts in terms of acreage by

- iv. Cowardin classification, hydrogeomorphic classification, and wetland rating, based on *Wetland Ratings* (Section 9.60.020B); Description of the compensatory mitigation site, including location and rationale for selection. Include an assessment of existing conditions: acreage (or square footage) of wetlands and uplands, water regime, sources of water, vegetation, soils, landscape position, surrounding land uses, and functions. . Estimate future conditions in this location if the compensation actions are NOT undertaken (i.e., how would this site progress through natural succession?);
 - v. Surface and subsurface hydrologic conditions, including an analysis of existing and proposed hydrologic regimes for enhanced, created, or restored compensatory mitigation areas. Include illustrations of how data for existing hydrologic conditions were used to determine the estimates of future hydrologic conditions;
 - vi. A description of the proposed actions for compensation of wetland and upland areas affected by the project. Include overall goals of the proposed mitigation, including a description of the targeted functions, hydrogeomorphic classification, and categories of wetlands;
 - vii. A description of the proposed mitigation construction activities and timing of activities;
 - viii. Performance standards (measurable standards for years post-installation) for upland and wetland communities, a monitoring schedule, and a maintenance schedule and actions proposed by year.
 - ix. A discussion of ongoing management practices that will protect wetlands after the project site has been developed, including proposed monitoring and maintenance programs (for remaining wetlands and compensatory mitigation wetlands);
 - x. A bond estimate for the entire compensatory mitigation project, including the following elements: site preparation, plant materials, construction materials, installation oversight, maintenance twice per year for up to five (5) years, annual monitoring field work and reporting, and contingency actions for a maximum of the total required number of years for monitoring;
 - xi. Proof of establishment of Notice on Title for the wetlands and buffers on the project site, including the compensatory mitigation areas.
- b. The scaled plan sheets for the compensatory mitigation must contain, at a minimum:
- i. Surveyed edges of the existing wetland and buffers, proposed areas of wetland and/or buffer impacts, location of proposed wetland and/or buffer compensation actions;
 - ii. Existing topography, ground-proofed, at two-foot contour intervals in the zone of the proposed compensation actions if any grading activity is proposed to create the compensation area(s). Also existing cross-sections of on-site wetland areas that are proposed to be impacted and cross-section(s) (estimated one-foot intervals) for the proposed areas of wetland or buffer compensation;
 - iii. Conditions expected from the proposed actions on site including future hydrogeomorphic types, vegetation community types by dominant species (wetland and upland), and future water regimes;
 - iv. Required wetland buffers for existing wetlands and proposed compensation areas. Also, identify any zones where buffers are proposed to be reduced or enlarged outside of the standards identified in this Section;

- v. A planting schedule for the compensation area including all species by proposed community type and water regime, size and type of plant material to be installed, spacing of plants, typical clustering patterns, total number of each species by community type, timing of installation;
- K. **Buffer Mitigation Ratios.** Impacts to buffers shall be mitigated at a 1:1 ratio. Compensatory buffer mitigation shall replace those buffer functions lost from development.
- L. **Protection of the Mitigation Site.** The area where the mitigation occurred and any associated buffer shall be located in a critical area tract or a conservation easement.
- M. **Monitoring.** Mitigation monitoring shall be required for a period necessary to establish that performance standards have been met, but not for a period less than five years. If a scrub-shrub or forested vegetation community is proposed, monitoring may be required for ten years or more. The project mitigation plan shall include monitoring elements that ensure certainty of success for the project's natural resource values and functions. If the mitigation goals are not obtained within the initial five-year period, the applicant remains responsible for restoration of the natural resource values and functions until the mitigation goals agreed to in the mitigation plan are achieved.
- N. **Advance Mitigation.** Mitigation for projects with pre-identified impacts to wetlands may be constructed in advance of the impacts if the mitigation is implemented according to federal rules, state policy on advance mitigation, and state water quality regulations consistent with *Interagency Regulatory Guide: Advance Permittee-Responsible Mitigation* (Ecology Publication #12-06-015, Olympia, WA, December 2012).
- O. **Alternative Mitigation Plans.** The County Planner may approve alternative wetland mitigation plans that are based on best available science, such as priority restoration plans that achieve restoration goals identified in the SMP. Alternative mitigation proposals must provide an equivalent or better level of protection of wetland functions and values than would be provided by the strict application of this section. The County Planner shall consider the following for approval of an alternative mitigation proposal:
 - 1. The proposal uses a watershed approach consistent with *Selecting Wetland Mitigation Sites Using a Watershed Approach (Eastern Washington)* (Ecology Publication #10-06-07, November 2010).
 - 2. Creation or enhancement of a larger system of natural areas and open space is preferable to the preservation of many individual habitat areas.
 - 3. Mitigation according to Section E is not feasible due to site constraints such as parcel size, stream type, wetland category, or geologic hazards.
 - 4. There is clear potential for success of the proposed mitigation at the proposed mitigation site.
 - 5. The plan shall contain clear and measurable standards for achieving compliance with the specific provisions of the plan. A monitoring plan shall, at a minimum, meet the provisions in Section J.
 - 6. The plan shall be reviewed and approved as part of overall approval of the proposed use.
 - 7. A wetland of a different type may be justified based on regional needs or functions and values; the replacement ratios may not be reduced or eliminated unless the reduction results in a preferred environmental alternative.
 - 8. Mitigation guarantees shall meet the minimum requirements as outlined in Section J.2.a.viii.

9. Qualified professionals in each of the critical areas addressed shall prepare the plan.
10. The County 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.

9.60.080 – Unauthorized Alterations and Enforcement

- A. When a wetland or its buffer has been altered in violation of this Section, all ongoing development work shall stop and the critical area shall be restored. The County 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 Section.
- B. **Requirement for Restoration Plan.** All development work shall remain stopped until a restoration plan is prepared and approved by County. Such a plan shall be prepared by a qualified professional using the currently accepted scientific principles and shall describe how the actions proposed meet the minimum requirements described in subsection (C). The Director of Public Works or the County Planner shall, at the violator's expense, seek expert advice in determining the adequacy of the plan. Inadequate plans shall be returned to the applicant or violator for revision and resubmittal.
- C. **Minimum Performance Standards for Restoration.** The following minimum performance standards shall be met for the restoration of a wetland, provided that if the applicant or other responsible party can demonstrate that greater functions and habitat values can be obtained, these standards may be modified:
 1. The historic structure, functions, and values of the affected wetland shall be restored, including water quality and habitat functions;
 2. The historic soil types and configuration shall be restored to the extent practicable;
 3. The wetland and buffers shall be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities. The historic functions and values should be replicated at the location of the alteration;
 4. Information demonstrating compliance with other applicable provisions of this Chapter shall be submitted to the Director of Public Works or the County Planner.
- D. **Site Investigations.** The Director of Public Works or the County Planner is authorized to make site inspections and take such actions as are necessary to enforce this Section. The Director of Public Works or the County Planner shall present proper credentials and make a reasonable effort to contact any property owner before entering onto private property.
- E. **Penalties.** Any person, party, firm, corporation, or other legal entity convicted of violating any of the provisions of this Section shall be guilty of a misdemeanor.
 1. Each day or portion of a day during which a violation of this Section is committed or continued shall constitute a separate offense. Any development carried out contrary to the provisions of this Section shall constitute a public nuisance and may be enjoined as provided by the statutes of the state of Washington. The County may levy civil penalties against any person, party, firm, corporation, or other legal entity for violation of any of the provisions of this Section. The civil penalty shall be as described in the General Penalty Chapter (Chapter 1.12) of the Whitman County Code.

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

9.60.090 – Appeal

Appeal of any administrative wetlands ordinance decision shall be limited to the applicant, and shall be heard by the Board of Adjustment, as established by Chapter 19.06 of the Whitman County Zoning Ordinance.

SECTION 9.70 FISH AND WILDLIFE HABITAT CONSERVATION AREAS

9.70.010 – Purpose

It is the intent of Whitman County to recognize the importance of protecting fish and wildlife habitat conservation areas while at the same time encouraging continued economic development of the County, including the continuation of agriculture. Implementation of this Section is directed toward preserving resources by steering incompatible development away from these areas and/or by providing adequate and appropriate mitigation measures to development that alleviate negative impacts. An applicant shall be required to obtain a fish and wildlife habitat evaluation for any parcel upon which any proposed development or non-development clearing activities within or adjacent to designated habitat areas. If the evaluation reveals the existence of a designated fish and wildlife habitat area a critical area report is required.

9.70.020 – Designation

All areas within Whitman County meeting one or more of the following criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this ordinance and shall be managed consistent with the best available science, such as the Washington Department of Fish and Wildlife's Management Recommendations for Priority Habitat and Species. Fish and wildlife habitat conservation areas shall include:

- A. Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association;
- B. State priority habitats and areas associated with state priority species; A state list of priority habitats is included in Appendix 1.
- C. **Habitats and Species of Local Importance.** Areas legislatively designated and mapped by the County because of unusual or unique habitat warranting protection due to their population status or sensitivity to habitat manipulation. Habitats may include a seasonal range or habitat element with which a species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.
 1. **Designation Process.** The County shall accept and consider nominations for habitat areas and species to be designated as locally important on an annual basis. The nomination may include management strategies for the species or habitats. Management strategies must be supported by the best available science, and where restoration of habitat is proposed, a specific plan for restoration must be provided prior to nomination. Habitats and species may be nominated for designation by any person. A habitat characteristics hand-out with guidelines on important characteristics for nominating locally important habitat areas is available from the planning office. The process for nomination is as follows:
 - a. The County Planner shall determine whether the nomination proposal is complete, and if complete, shall evaluate it according to the

- characteristics enumerated in subsection (1) and make a recommendation to the Planning Commission based on those findings;
- b. The Planning Commission shall hold a public hearing for proposals and make a recommendation to the Board of County Commissioners based on the characteristics enumerated in subsection (1);
 - c. The Board of County Commissioners shall then decide whether or not to approve the application to designate an area for a Habitat or Species of Local Importance;
 - d. Approved nominations will be subject to the provisions of this Section.
- D. **Naturally Occurring Ponds under Twenty Acres.** Naturally occurring ponds are those ponds under twenty (20) acres and their submerged aquatic beds that provide fish or wildlife habitat, including those artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds. Naturally occurring ponds do not include ponds deliberately designed and created from dry sites, such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds, and landscape amenities, unless such artificial ponds were intentionally created for mitigation.
- E. **Waters of the State.** Waters of the state include lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and watercourses within the jurisdiction of the State of Washington, as classified in WAC 222-16-031 (or WAC 222-16-030 depending on classification used).
- F. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity.
- G. **State Natural Area Preserves and Natural Resource Conservation Areas.** Natural area preserves and natural resource conservation areas are defined, established, and managed by the Washington State Department of Natural Resources.
- H. **Areas of Rare Plant Species and High Quality Ecosystems.** Areas of rare plant species and high quality ecosystems are identified by the Washington State Department of Natural Resources through the Natural Heritage Program and Washington State Department of Fish and Wildlife Priority Habitat and Species (PHS) List; and
- I. Land useful or essential for preserving connections between habitat blocks and open spaces.

9.70.030 - Mapping

The approximate location and extent of habitat conservation areas are shown on the critical area maps adopted by the County, as most recently updated. The following critical area maps are hereby adopted:

- A. Washington Department of Fish and Wildlife Priority Habitat and Species maps;
- B. Washington State Department of Natural Resources, Official Water Type Reference maps, as amended;
- C. Washington State Department of Natural Resources Natural Heritage Program mapping data;
- D. Anadromous and resident salmonid distribution maps contained in the Habitat Limiting Factors reports published by the Washington Conservation Commission;
- E. Washington State Department of Natural Resources State Natural Area Preserves and Natural Resource Conservation Area maps; and
- F. County official habitat maps.

These maps are to be used as a guide for the County, project applicants, and/or property owners and should be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

9.70.040 – Critical Area Report-Additional Requirements for Habitat Conservation Areas

In addition to the general critical area report requirements, the following elements must be met:

- A. **Preparation by a Qualified Professional.** A critical areas report for a habitat conservation area shall be prepared by a qualified professional who is a biologist with experience preparing reports for the relevant type of habitat;
- B. **Areas Addressed in Critical Area Report.** The following areas shall be addressed in a critical area report for habitat conservation areas:
 - 1. The project area of the proposed activity;
 - 2. All habitat conservation areas and recommended buffers within two ~~three~~ hundred (200) feet of the project area; and
 - 3. All shoreline areas, floodplains, other critical areas, and related buffers within two hundred (200) feet of the project area.
- C. **Habitat Assessment.** An investigation of the project area to evaluate the potential presence or absence of designated critical fish or wildlife species or habitat. An assessment of habitats shall include, at a minimum, the following information:
 - 1. Detailed description of vegetation on and adjacent to the project area and its associated buffer;
 - 2. 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;
 - 3. A discussion of any federal, state, or local special management recommendations, including Washington Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area;
 - 4. A detailed discussion of the direct and indirect potential impacts on habitat by the project, including potential impacts to water quality;
 - 5. A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded prior to the proposed activity; and
 - 6. A discussion of ongoing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs.
- D. **Additional Information May Be Required.** When appropriate due to the type of habitat or species present or the project area conditions, the County Planner may also require the habitat management plan to include:
 - 1. An evaluation by an independent qualified professional regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or programs, to include any recommendations as appropriate;
 - 2. A request for consultation with the Washington Department of Fish and Wildlife or the local Native American Indian Tribe or other appropriate agency; and
 - 3. Detailed surface and subsurface hydrologic features both on and adjacent to the site.

9.70.050 – Performance Standards

- A. **General Performance Standards.** The following standards shall apply within all habitat conservation areas:
1. Alteration of habitat areas. A habitat conservation area may be altered only if the proposed alteration and any proposed mitigation does not degrade the functions and values of the habitat. New structures and land alterations shall be prohibited from habitat conservation areas except in accordance with this Section;
 2. Non-indigenous species. No plant, wildlife, or fish species not indigenous to the region shall be introduced into a habitat conservation area unless authorized by a state or federal permit or approval;
 3. Mitigation and contiguous corridors. Mitigation sites shall be located to preserve or achieve contiguous wildlife habitat corridors to minimize the isolating effects of development on habitat areas;
 4. Additional conditions. The County Planner shall condition approvals of activities allowed within or adjacent to a habitat conservation area or its buffers, as necessary to minimize or mitigate any potential adverse impacts. Conditions shall be based on the best available science and may include, but are not limited to, the following:
 - a. Establishment of buffer zones;
 - b. Preservation of critically important vegetation and/or habitat features such as snags and downed wood;
 - c. Limitation of access to the habitat area, including fencing to deter unauthorized access;
 - d. Seasonal restriction of construction activities;
 - e. Establishment of a duration and timetable for periodic review of mitigation activities; and
 - f. Requirement of a performance bond, when necessary, to ensure completion and success of proposed mitigation.
 5. Equivalent mitigation required. Mitigation of alterations to habitat conservation areas shall achieve equivalent or greater biologic and hydrologic functions and shall include mitigation for adverse impacts upstream or downstream of the development proposal site;
 6. Approvals and the best available science. Any approval of alterations or impacts to a habitat conservation area shall be supported by the best available science;
 7. Buffers.
 - a. Establishment of buffers. The County Planner shall require the establishment of buffer areas for activities adjacent to habitat conservation areas when needed to protect habitat conservation areas. Buffers shall consist of an undisturbed area of native vegetation or areas identified for restoration established to protect the integrity, functions, and values of the affected habitat. Required buffer widths shall reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby and shall be consistent with the management recommendations issued by the Washington Department of Fish and Wildlife.
 - b. Increased habitat buffers. The County Planner may require increased buffer widths in accordance with recommendations of a qualified professional biologist and the best available science when it is determined that a larger buffer is necessary to protect habitat area functions and values due to site specific characteristics.
 - c. Habitat buffer averaging. The County Planner may allow the recommended habitat area buffer width to be reduced in accordance with a critical area report, the best available science, and the management recommendations issued by the Washington Department of Fish and Wildlife, only if:
 - i. It will not reduce stream or habitat functions;
 - ii. It will not adversely affect salmonid habitat;

- iii. It will provide additional natural resource protection, such as buffer enhancement;
 - iv. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and
 - v. The buffer area width is not reduced by more than twenty-five percent (25%) in any location.
8. Signs. The outer perimeter of the habitat conservation area or buffer and the limits of those areas to be disturbed pursuant to an approved permit or authorization shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur. The County Planner may require permanent signs with specific and appropriate wording be installed along the boundary of a habitat conservation area or buffer as a condition of any permit or approval;
9. Fencing.
- a. The County Planner shall determine if fencing is necessary to protect the functions and values of the critical area. If found to be necessary, the Planning Director shall condition any permit or authorization issued pursuant to this Section to require the applicant to install a permanent fence at the edge of the habitat conservation area or buffer, when fencing will prevent future impacts to the habitat conservation area.
 - b. The applicant shall be required to install a permanent fence around the habitat conservation area or buffer when domestic grazing animals are present or may be introduced on site.
 - c. Fencing installed as part of a proposed activity or as required in this Subsection shall be design so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes habitat impacts.
10. Subdivisions. The subdivision and short subdivision of land in fish and wildlife habitat conservation areas and associated buffers is subject to the following:
- a. Land that is located wholly within a habitat conservation area or its buffer may not be subdivided;
 - b. Land that is located partially within a habitat conservation area or its buffer may be divided provided that the developable portion of each new lot and its access is located outside of the habitat conservation area or its buffer and meets the minimum lot size requirements of Chapter 19.10 of the Whitman County Code;
 - c. Access roads and utilities serving the proposed subdivision may be permitted within the habitat conservation area and associated buffers only if the Planning Director determines that no other feasible alternative exists and when consistent with this Section.

B. Specific Habitat Performance Standards.

1. Endangered, threatened and sensitive species. No development shall be allowed within a habitat conservation area or buffer with which state or federally endangered, threatened, or sensitive species have a primary association, except that which is provided for by a management plan established by the Washington Department of Fish and Wildlife or applicable state or federal agency.
- a. Whenever activities are proposed adjacent to a habitat conservation area with which state or federally endangered, threatened, or sensitive species have a primary association, such area shall be protected through the application of protection measures in accordance with a critical area report prepared by a qualified professional and approved by the County. Approval for alteration of land adjacent to the habitat conservation area or its buffer shall not occur prior to consultation

- with the Washington Department of Fish and Wildlife for animal species, the Washington State Department of Natural Resources for plant species, and other appropriate federal or state agencies.
2. On December 9, 2016, the Fish and Wildlife Commission changed the status of Bald Eagles in Washington from sensitive to unlisted (effective February 5, 2017). Consequently, the responsibility of Bald Eagle management in Washington changed from the Washington State Department of Fish and Wildlife (WDFW) to the U.S. Fish and Wildlife Services (USFWS) under the existing authorities of the federal Bald and Golden Eagle Protection Act and Migratory Bird Treaty Act. Therein, it is recommended any action(s) that potentially impact Bald Eagles be conducted in accordance with the *National Bald Eagle Management Guidelines* <http://www.fws.gov/pacific/eagle/documents/NationalBaldEagleManagementGuidelines.pdf>.
Anadromous Fish.
 - a. All activities, uses, and alterations proposed to be located in water bodies used by anadromous fish or in areas that affect such water bodies shall give special consideration to the preservation and enhancement of anadromous fish habitat, including, but not limited to, adhering to the following standards:
 - i. Activities shall be timed to occur only during the allowable work window as designated by the Washington Department of Fish and Wildlife for the applicable species;
 - ii. An alternative alignment or location for the activity is not feasible;
 - iii. The activity is designed so that it will not degrade the functions or values of the fish habitat or other critical areas;
 - iv. Shoreline erosion control measures shall be designed to use bioengineering methods or soft armoring techniques, according to an approved critical area report; and
 - v. Any impacts to the functions or values of the habitat conservation area are mitigated in accordance with an approved critical area report.
 - b. Structures that prevent the migration of salmonids shall not be allowed in the portion of water bodies currently or historically used by anadromous fish. Fish bypass facilities shall be provided that allow the upstream migration of adult fish and shall prevent fry and juveniles migrating downstream from being trapped or harmed.
 - c. Fills, when authorized by the locally adopted shoreline management program, shall not adversely impact anadromous fish or their habitat or shall mitigate any unavoidable impacts and shall only be allowed for a water-dependent use.
 3. Riparian habitat areas. Unless otherwise allowed in this Section, all structures and activities shall be located outside of the riparian habitat area.
 - a. Establishment of riparian habitat areas. Riparian habitat areas shall be established for habitats that include aquatic and terrestrial ecosystems that mutually benefit each other and that are located adjacent to rivers, perennial or intermittent streams, seeps, and springs.
 - b. Riparian habitat area widths. Recommended riparian habitat area widths are shown in the table below. A riparian habitat area shall have the width recommended, unless a greater width is required pursuant to subsection (3c), or a lesser width is allowed pursuant to subsection (3d). Widths shall be measured outward in each direction, 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

Table 9.5 Riparian Habitat Areas

Stream Type	Recommended RHA widths
Type 1 and 2; or shorelines of the state, or shorelines of statewide significance	250 feet
Type 3; or other perennial or fish bearing streams, 5-20 feet wide	200 feet
Type 3; or other perennial or fish bearing streams, < 5 feet wide	150 feet
Type 4 and 5; or intermittent streams and washes with low mass wasting potential	150 feet
Type 4 and 5; or intermittent streams and washes with high mass wasting potential	225 feet

- c. Increased riparian habitat area width. The recommended riparian habitat area widths shall be increased as follows:
 - i. When the County Planner determines that the recommended width is insufficient to prevent habitat degradation and to protect the structure and function of the habitat area;
 - ii. When the frequently flooded area exceeds the recommended riparian habitat area width, the riparian habitat area shall extend to the outer edge of the frequently flooded area;
 - iii. When a channel migration zone is present, the riparian habitat area width shall be measured from the outer edge of the channel migration zone;
 - iv. When the habitat area is in an area of high blowdown potential, the riparian habitat area width shall be expanded an additional fifty (50) feet on the windward side; or
 - v. When the habitat area is within an erosion or landslide hazard area, or buffer, the riparian habitat area width shall be the recommended distance, or the erosion or landslide hazard area or buffer, whichever is greater.
 - d. Riparian habitat area width averaging. The County Planner may allow the recommended riparian habitat area width to be reduced in accordance with a critical area report only if:
 - i. The width reduction will not reduce stream or habitat functions, including those of non-fish habitat;
 - ii. The width reduction will not degrade the habitat, including habitat for anadromous fish;
 - iii. The proposal will provide additional habitat protection;
 - iv. The total area contained in the riparian habitat area of each stream on the development proposal site is not decreased;
 - v. The recommended riparian habitat area width is not reduced by more than 25% in any one location;
 - vi. The width reduction will not be located within another critical area or associated buffer; and
 - vii. The reduced riparian habitat area width is supported by the best available science.
 - e. Riparian habitat mitigation. Mitigation of adverse impacts to riparian habitat areas shall result in equivalent functions and values on a per function basis, be located as near the alteration as feasible, and be located in the same sub-drainage basin as the habitat impacted.
 - f. Alternative mitigation for riparian habitat areas. The performance standards set forth herein for riparian habitat areas may be modified at the County's discretion if the applicant demonstrates that greater habitat functions, on a per function basis, can be obtained in the affected sub-drainage basin as a result of alternative mitigation measures.
4. Aquatic habitat. Any activity which may be allowed pursuant to this Section that is within a riparian habitat area, pond, lake, water of the state, or

associated buffers shall not be approved unless the activity complies with the provisions of the Whitman County Shoreline Master Program, all applicable state and federal requirements, and is in accordance with an approved critical area report.

SECTION 9.80 CRITICAL AQUIFER RECHARGE AREAS

9.80.010 – Purpose and Applicability

- A. The purpose of this Section is to designate and protect critical aquifer recharge areas pursuant to the Growth Management Act (Chapter 36.70A RCW) in order to safeguard the public health, safety and welfare and to protect groundwater resources. Critical aquifer recharge areas (CARAs) are areas with a recharging effect on aquifers used for potable water that are vulnerable to contamination that would affect water quality. CARAs have prevailing geologic conditions associated with infiltration rates that create a high potential for contamination of ground water resources or contribute significantly to the replenishment of ground water. These areas include the following:
1. Wellhead Protection Areas. Potable water-supply purveyors using ground water must develop and implement wellhead protection programs that include delineation of protection areas around each well, inventorying of contamination sources within wellhead protection areas, and development and implementation of water supply contingency and spill response plans to address contamination incidents that could cause loss of a well. The State of Washington wellhead protection regulations exclude individual domestic wells and well systems that do not meet the definition of public water supplies.
 2. Sole source Protection aquifers: Sole source aquifers are areas designated by the U.S. Environmental Agency pursuant to the Federal Safe Water Drinking Act.
 3. Susceptible ground water management areas: Susceptible ground water management areas are areas that have been designated as moderately, or highly vulnerable or susceptible in an adopted ground water management program developed pursuant to Chapters 173-100 WAC.
 4. Special protection areas: Defined pursuant to WAC 173-200-090.
 5. Moderately, highly vulnerable or highly susceptible aquifer recharge areas: Aquifer recharge areas that are moderately, highly vulnerable or highly susceptible to degradation or depletion due to hydro-geologic characteristics are those areas delineated by a hydro-geologic study prepared in accordance with the state Department of Ecology guidelines or meeting the criteria established by the Department of Ecology.
- B. Aquifer recharge area susceptibility ratings: CARAs shall be rated as having high, moderate, or low susceptibility based on soil permeability, geologic matrix, infiltration, and depth to water as determined by the criteria established by the state Department of Ecology.
- C. The County has designated CARAs pursuant to RCW 36.70A.170 by defining them and providing criteria for their identification. Project proponents are responsible for informing the County whether a CARA exists on their property and is regulated pursuant to this Section. Specific criteria for the designation of CARAs are contained in this Section. Current data, as confirmed by several hydro-geological studies, find that aquifer recharge in Whitman County to be an area-wide process. Recharge is thought to occur as deep percolation and snowmelt over a wide area rather than occurring as a process involving large volumes of recharge getting into the aquifer in discrete areas. To date, no specific CARAs have been identified in Whitman County.

9.80.020 – Procedure

- A. An applicant seeking to develop property which requires any type of county permit or approval shall submit with the application an Affidavit of Awareness certifying that to the best of their knowledge none of the criteria stated in the affidavit exist on the property. This affidavit will comply with RCW 9A.72.085, (see Section 9.80.070). Any application that fails to contain a signed affidavit shall be rejected and only accepted upon resubmission of a signed affidavit.
- B. If any of the stated criteria on the Affidavit of Awareness are present on the development property, the Planning Office shall direct the applicant to comply with Section 9.80.070 and submit a certified hydro-geologic assessment.
- C. If an applicant's statement asserts that none of Section 9.80.070 criteria apply to the parcel or its present or future development, the Planning Office may accept the statement and proceed with the permitting or approval process. If the Planning Office has or obtains information which clearly establishes the applicant's statement is incorrect, the applicant will be advised in writing of the inconsistent information and advised to either (a) provide an amended statement adding the designated criteria as being applicable and obtain a hydro-geologic assessment, or, (b) present sufficient countering information clearly establishing that the basis for the Planning Office's concern is incorrect. The final determination concerning whether a hydro-geologic assessment is required shall be with the Director of Public Works. The Director of Public Works' decision shall be final and no interlocutory appeal shall be allowed.
- D. Should the hydro-geological assessment conclude that the development will have a critical effect on an aquifer recharge area the applicant shall incorporate all the recommendations, conditions, and/or requirements for protecting the area having a critical recharging effect on aquifers used for potable water into the development's plan. The completed hydro-geologic assessment shall be received by the Planning Office with the development's plans setting out the mitigation measures and their implementation as required by the assessment before any permit or approval is granted. The granting of any permit or approval shall be conditioned upon complete and continued implementation of the mitigation measures. The Planning Office shall have the responsibility to monitor and enforce all recommendations, conditions, and/or requirements as set forth in the hydro-geologic assessment.

9.80.030 – Activities Allowed in Critical Aquifer Recharge Areas

The following are allowed in CARAs, and do not require approval or submission of a site assessment report:

- A. All residential uses;
- B. Development and improvement of parks, recreation facilities, open space, or conservation areas resulting in less than five percent total site impervious surface area that do not increase the use of a hazardous substance;
- C. Public water systems;
- D. On-site domestic septic systems releasing less than 14,500 gallons of effluent per day and that are limited to a maximum density of one system per one acre.

9.80.040 – Prohibited uses

- A. Landfills, including hazardous waste, municipal solid waste, special waste, woodwaste, inert waste, and demolition waste.
- B. Underground injection wells of classes I, II, and IV and subclasses 5F01, 5D03, 5F04, 5W09, 5W10, 5W11, 5W31, 5X13, 5X14, 5X15, 5W20, 5X28, and 5N24 of Class V wells.
- C. Mining of metals and hard rock. Sand and gravel mining shall also be prohibited from CARAs rated as highly susceptible or vulnerable.
- D. Wood treatment facilities that allow any portion of the treatment process to occur over natural or manmade permeable surfaces.
- E. Facilities that store, process, or dispose of radioactive substances.
- F. Activities that would significantly reduce the recharge to aquifers currently or potentially used as a potable water source.
- G. Activities that would significantly reduce the recharge to aquifers that are a source of significant baseflow to a regulated stream.
- H. Activities that are not connected to an available sanitary sewer system in areas associated with sole source aquifers.

9.80.050 – Site Assessment Report

Development proposals in a CARA require a site assessment report. The site assessment report must meet the requirements of this Section.

- A. **Preparation by a Qualified Professional.** The critical area report shall be prepared by, or under the direction of, and signed by a professional engineer, licensed in the State of Washington, trained and qualified to analyze geologic, hydrologic, and groundwater flow systems; or by a geologist or hydro-geologist who earns his or her livelihood from the field of geology and/or hydrogeology and has received a degree in geological sciences from an accredited four year institution of higher education and who has relevant training and experience analyzing geologic, hydrologic, and groundwater flow systems.
- B. A site plan shall be prepared in accordance with the requirements of the County Planner. In addition, a site assessment report shall include:
 - 1. A description of the project including those activities, practices, materials, or chemicals that have a potential to adversely affect the quantity or quality of underlying aquifer(s);
 - 2. Identification of appropriate mitigation measures and description of how they will prevent degradation of underlying aquifer(s);
 - 3. A site plan or another appropriately sealed map showing the approximate location of known or geologically representative well(s) (abandoned and active), spring(s), and surface watercourses within 1,000 feet of the subject project property. All well logs available through the County Health Department for identified wells within 1000 feet of the project property shall be included;
 - 4. A description of the site-specific hydro-geologic characteristics regarding impact to the quantity or quality of underlying aquifer(s). At a minimum this will include a description of the lithology, depth to and static water level of known underlying aquifer(s), and depiction of groundwater flow direction and patterns on the appropriate map; and

5. Identification of the initial receptors of potential adverse impacts located hydraulically down-gradient from the project within 1,000 feet or as otherwise directed by the County Planner.

C. **Additional Site Assessment Elements.** After the initial project review, one or more of the site assessment elements listed below may be required based upon the proposed project activity, aquifer recharge area classification, complexity of underlying hydro-geologic conditions, and/or the perceived potential to adversely impact hydraulically down-gradient receptors. One or more of these additional elements may also be required if the applicant chooses to demonstrate that certain mitigation measures are not necessary to protect the quantity or quality of the underlying aquifer(s), or that the project does not pose a detrimental risk to hydraulically down-gradient receptors.

1. Lithologic characteristics and stratigraphic relationships of the affected aquifer(s) and overlying geologic units (includes soil types) including thickness, horizontal and vertical extent, permeability, and infiltration rates of surface soils.
2. Delineation of identified structural features such as faults, fractures, and fissures.
3. Aquifer characteristics including determination or recharge and discharge areas, transmissivity, storage, hydraulic conductivity, porosity, and estimate of groundwater flow direction, velocity and patterns for the affected aquifer(s).
4. Estimate of precipitation, evaporation, and evapotranspiration rates for the project area.
5. Preparation of appropriate hydro-geologic cross sections depicting at a minimum underlying lithology and stratigraphy, aquifer(s), and potential or probable contaminant pathways from a chemical release.
6. Contaminant fate and transport including probable migration pathways and travel time of potential contaminant release(s) from the site through the unsaturated zone to the aquifer(s) from the site through the unsaturated zone to the aquifer(s) may be attenuated within the unsaturated zone and aquifer(s). Include consideration of advection, dispersion, and diffusion of contaminants in the groundwater.
7. Delineation of areas potentially affected by contaminant migration on the ground surface and/or through the affected aquifer(s).
8. Determination of background or existing groundwater quality underlying the project area.
9. Development of groundwater monitoring program to measure potential impacts of the development of underlying aquifer(s).
10. Development of a spill plan and/or contingency plan describing the specific actions, which will be taken if a release of a contaminant(s) occurs, or if groundwater monitoring results indicate a contaminant(s) from the site has entered the underlying aquifer(s).
11. The degree of continuity between groundwater and nearby surface water including potential impact to "closed" or "low-flow" streams from proposed groundwater withdrawals, and potential impacts to surface water quality from site runoff or contaminated groundwater discharge.
12. Applicable projects shall be required to determine appropriate pumping rates and schedules that maintain appropriate pumping rates and schedules that maintain dynamic draw down levels above mean seal level.
13. Applicable projects such as special use permits, short plats, or long plats shall test existing and/or test wells for nitrate levels and where appropriate calculate the nitrate loading rate at full build-out of the project. If the calculated nitrate loading in the intended water supply equals or exceeds 5 mg/L nitrate as nitrogen, the proposal will need to develop a mitigation plan. The point of compliance shall be determined based on project specifics.

14. A description of wetlands and fish and wildlife habitat conservation areas (FWHCA) and their buffers when such occur within 200 feet of the recharge area.

9.80.060 – Performance Standards

- A. **General Performance Standards.** Except as may be otherwise provided, the following standards shall apply within all CARAs:
 1. Activities may only be permitted within a CARA if the applicant can show that the proposed activity will not cause contaminants to enter the aquifer and the proposed activity will not adversely affect the recharging of the aquifer;
 2. The proposed activity must comply with the water source protection requirements and recommendations of the federal Environmental Protection Agency, the state Department of Health, and the Whitman County Health Department; and
 3. The proposed activity must be designed and constructed in accordance with existing local, state and federal laws and regulations, and the most currently adopted versions of the following: the Stormwater Management Manual for Eastern Washington, for those geographic areas covered under the Eastern Washington Phase II Municipal Stormwater Permit (Ecology 2007) or activities covered under the Ecology General Construction Permit (Ecology 2005), and/or the locally adopted stormwater program, as applicable.
- B. **Performance Standards - Specific Uses.** In addition to general performance standards required herein, the following standards shall be required for the following specific uses:
 1. Storage tanks. Storage tanks shall meet the following requirements in addition to County building codes:
 - a. Underground tanks. All new underground storage facilities proposed for storage of hazardous substances or hazardous wastes shall be designed and constructed to:
 - i. Prevent releases due to corrosion or structural failure for the operational life of the tank;
 - ii. Be constructed of non-corrosive material, steel clad with a non-corrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substances; and
 - iii. Use material in the construction or lining of the tank that is compatible with the substance to be stored.
 - b. Above ground tanks. Above ground storage facilities proposed to store hazardous substances or waste shall be designed to:
 - i. Not allow the release of a hazardous substance to the ground waters, or surface waters;
 - ii. Have a primary containment area enclosing or underlying the tank or part thereof; and
 - iii. Incorporate a secondary containment system either built into the tank structure or a dike system built outside the tank or tanks.
 2. Vehicle repair and servicing.
 - a. Vehicle repair and servicing shall be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing shall be stored in a manner protecting them from weather and provide containment in the event of leaks.
 - b. No dry wells shall be allowed in critical aquifer recharge areas on sites used for vehicle repair and servicing. Dry wells existing on the site prior to facility establishment shall be abandoned using

techniques approved by the state Department of Ecology prior to the proposed activity.

- 3. Residential use of pesticides and nutrients. Application of household pesticides, herbicides, and fertilizers shall not exceed times and rates specified by the product manufacturer.
- 4. Spreading or injection of reclaimed water. Water re-use projects for reclaimed water shall be in accordance with County water and/or wastewater comprehensive plans and shall comply with the following requirements:
 - a. Surface spreading shall meet the ground water recharge criteria pursuant to Chapter 90.46.080 and 90.46.042 RCW; and
 - b. Direct injection shall be in accordance with standards pursuant to Chapter 90.46.042 RCW.

9.80.070 – Affidavit of Awareness

Before being issued a building permit an affidavit of awareness will be signed by the applicant indicating that the development is not within any public wellhead protection zones designated under WAC 246-290; the site will not be used for hazardous substances [as now or hereafter defined in RCW 70.105D.020(7), processing, storage or handling in applications or quantities larger than is typical of household use; the site will not be used for hazardous waste treatment and storage as set forth in RCW 70.105 Hazardous Waste Management, as now or hereafter amended; the site will not be used as a commercial feedlot; and the development envelope is not within 200 feet of the ordinary high water mark of a river, stream, lake or pond and by reference to the U.S.G.S. map is identified as "perennial" thereon.

If the proposed development involves any of the above mentioned examples the applicant shall be required to obtain a hydro-geologic assessment.

Affidavit of Awareness

I, _____ state that I am not aware of any critical aquifer recharge areas near the location of my proposed development. Specifically, I am not aware of any public wellhead protection zones designated under WAC 246-290; the site will not be used for hazardous substances [as now or hereafter defined in RCW 70.105D.020(7), processing, storage or handling in applications or quantities larger than is typical of household use; the site will not be used for hazardous waste treatment and storage as set forth in RCW 70.105 Hazardous Waste Management, as now or hereafter amended; the site will not be used as a commercial feedlot; the development envelope is not within 200 feet of the ordinary high water mark of a river, stream, lake or pond and by reference to the U.S.G.S. map is identified as "perennial" thereon; and the development does not involve any of the prohibited uses listed in Section 9.80.040.

Signed _____ Date _____

(To assist applicants in complying with development within 200 feet of the above mentioned water courses, the following is a non-exclusive list of generally accepted rivers, streams, and a lake within the County that are or portions are identified as being "perennial": North and South Forks of the Palouse River, Palouse River, Snake River, Union Flat Creek, Paradise Creek, Rock Lake, Rock Creek, Latah/Hangman Creek, Cottonwood Creek, Fourmile Creek, Missouri Flat Creek, Paradise Creek, and Pine Creek.)

SECTION 9.90 GEOLOGICALLY HAZARDOUS AREAS

9.90.010 – Purpose

It is the purpose of this Section to minimize hazards to the public from development activities on or adjacent to areas of geological hazard. For purposes of this Section, geologically hazardous areas include the following: erosion hazard areas, landslide hazard areas and seismic hazard areas.

9.90.020 – Designation of Specific Hazard Areas

- A. **Erosion Hazard Areas.** Erosion hazard areas are at least those areas identified by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a "moderate to severe," "severe," or "very severe" rill and inter-rill erosion hazard.
- B. **Landslide Hazard Areas.** Landslide hazard areas are areas potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. Example of these may include, but are not limited to the following:
1. Those areas delineated by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a "severe" limitation for building site development;
 2. Those areas mapped by the Washington State Department of Natural Resources (slope stability mapping) as unstable (U or class 3), unstable old slides (UOS or class 4), or unstable recent slides (URS or class 5);
 3. Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the U.S. Geological Survey or Washington State Department of Natural Resources;
 4. Areas with all three of the following characteristics:
 - a. Slopes steeper than fifteen percent (15%);
 - b. Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and
 - c. Springs or ground water seepage.
 5. Areas that have shown movement during the Holocene epoch (from ten thousand years ago to the present) or that are underlain or covered by mass wastage debris of that epoch;
 6. Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;
 7. Slopes having gradients steeper than eighty percent (80%) subject to rock fall during seismic shaking;
 8. Areas potentially unstable because of rapid stream incision, stream bank erosion, and undercutting by wave action;
 9. Areas that show evidence of, or are at risk from snow avalanches;
 10. Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding; and
 11. Any area with a slope of forty percent (40%) or steeper and with a vertical relief of ten (10) or more feet except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and is measured by averaging the inclination over at least ten (10) feet of vertical relief.
- C. **Seismic Hazard Areas.** Areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, lateral spreading, or surface faulting.
- D. **Other Hazard Areas.** Geologically hazardous areas shall also include areas determined by the County Planner to be susceptible to other geological events including mass wasting, debris flows, rock falls, and differential settlement.

9.90.030 – Mapping

The approximate location and extent of geologically hazardous areas are shown on the following critical area maps hereby adopted for reference. These maps are subject to continuous updating as new critical areas are identified; therefore, they are a reference source and are not intended to provide a final critical area designation. They are as follows:

- A. U.S. Geological Survey landslide and seismic hazard maps.
- B. Washington State Department of Natural Resources slope stability maps.
- C. Federal Emergency Management Administration flood insurance maps.
- D. Applicable maps adopted by Whitman County and local jurisdictions.

9.90.040 – Allowed Activities in Geologically Hazardous Areas

The following activities shall be allowed in geologically hazardous areas and shall not require a critical area report if the County Planner first determines the activity will not increase the risk of the hazard:

- A. Construction of new buildings with less than 2,500 square feet of floor or roof area, whichever is greater, and which are not residential structures or used as places of employment or public assembly.
- B. Additions to existing residences that are 250 square feet or less.
- C. Installation of fences.

9.90.050 – Critical Area Report/Additional Requirements for Geologically Hazardous Areas

- A. **Preparation by a Qualified Professional.** A critical areas report for a geologically hazardous area shall be prepared by an engineer or geologist, licensed in the state of Washington, with experience analyzing geologic, hydrologic, and ground water flow systems, and who has experience preparing reports for the relevant type of hazard.
- B. **Area Addressed in Critical Area Report.** The following areas shall be addressed in a critical area report for geologically hazardous areas:
 - 1. The project area of the proposed activity; and
 - 2. All geologically hazardous areas within two hundred (200) feet of the project area or that have potential to be affected by the proposal;
- C. **Geological Hazards Assessment.** A critical area report for a geologically hazardous area shall contain an assessment of geological hazards including the following site and proposal-related information at a minimum:
 - 1. **Site and Construction Plans.** The report shall include a copy of the site plans for the proposal showing:
 - a. The type and extent of geologic hazard areas, any other critical areas, and buffers on, adjacent to, within two hundred (200) feet of, or that are likely to impact the proposal;
 - b. Proposed development, including the location of existing and proposed structures, fill, storage of materials, and drainage facilities, with dimensions indicating distances to the floodplain, if available;
 - c. The topography, in two-foot contours, of the project area and all hazard areas addressed in the report; and
 - d. Clearing limits.
 - 2. **Assessment of Geological Characteristics.** The report shall include an assessment of the geologic characteristics of the soils, sediments, and/or

rock of the project area and potentially affected adjacent properties, and a review of the site history regarding landslides, erosion, and prior grading. Soils analysis shall be accomplished in accordance with accepted classification systems in use in the region. The assessment shall include, but not be limited to:

- a. A description of the surface and subsurface geology, hydrology, soils, and vegetation found in the project area and in all hazard areas addressed in the report;
 - b. A detailed overview of the field investigations, published data, and references; data and conclusions from past assessments of the site; and site specific measurements, test, investigations, or studies that support the identification of geologically hazardous areas; and
 - c. A description of the vulnerability of the site to seismic and other geologic events.
3. **Analysis of Proposal.** The report shall contain a hazards analysis including a detailed description of the project, its relationship to the geologic hazard(s), and its potential impact upon the hazard area, the subject property, and affected adjacent properties.
 4. **Minimum Buffer and Building Setback.** The report shall make a recommendation for the minimum no-disturbance buffer and minimum building setback from any geologic hazard based upon the geotechnical analysis.
- D. **Incorporation of Previous Study.** Where a valid critical areas report has been prepared within the last five (5) years for a specific site, and where the proposed land use activity and surrounding site conditions are unchanged, said report may be incorporated into the required critical area report. The applicant shall submit a hazards assessment detailing any changed environmental conditions associated with the site.
- E. **Mitigation of Long-Term Impacts.** When hazard mitigation is required, the mitigation plan shall specifically address how the activity maintains or reduces the pre-existing level of risk to the site and adjacent properties on a long-term basis (equal to or exceeding the projected lifespan of the activity or occupation). Proposed mitigation techniques shall be considered to provide long-term hazard reduction only if they do not require regular maintenance or other actions to maintain their function. Mitigation may also be required to avoid any increase in risk above the pre-existing conditions following abandonment of the activity.

9.90.060 – Critical Area Report/Additional Technical Information Requirements for Specific Hazards

In addition to the general critical area report requirements of Section 9.05D.050, critical area reports for geologically hazardous areas must meet the requirements of this Section. Critical area reports for two or more types of critical areas must meet the report requirements for each relevant type of critical area.

- A. **Erosion and Landslide Hazard Areas.** In addition to the basic critical area report requirements, the technical information for an erosion hazard or landslide hazard area shall include the following information at a minimum:
1. **Site Plan.** The critical area report shall include a copy of the site plan for the proposal showing:
 - a. The height of slope, slope gradient, and cross-section of the project area;
 - b. The location of springs, seeps, or other surface expressions of ground water on or within two hundred (200) feet of the project area or that have potential to be affected by the proposal; and
 - c. The location and description of surface water runoff features;

2. **Hazards Analysis.** The hazards analysis component of the critical areas report shall specifically include:
 - a. A description of the extent and type of vegetative cover;
 - b. A description of subsurface conditions based on data from site-specific explorations;
 - c. Descriptions of surface and ground water conditions, public and private sewage disposal systems, fills and excavations, and all structural improvements;
 - d. An estimate of slope stability and the effect construction and placement of structures will have on the slope over the estimated life of the structure;
 - e. An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a one hundred-year storm event;
 - f. Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on down slope properties.
 - g. A study of slope stability including an analysis of proposed cuts, fills, and other site grading;
 - h. Recommendations for building siting limitations; and
 - i. An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion;
3. **Geotechnical Engineering Report.** The technical information for a project within a landslide hazard area shall include a geotechnical engineering report prepared by a licensed engineer that presents engineering recommendations for the following:
 - a. Parameters for design of site improvements including appropriate foundations and retaining structures. These should include allowable load and resistance capacities for bearing and lateral loads, installation considerations, and estimates of settlement performance;
 - b. Recommendations for drainage and subdrainage improvements;
 - c. Earthwork recommendations including clearing and site preparation criteria, fill placement and compaction criteria, temporary and permanent slope inclinations and protection, and temporary excavation support, if necessary; and
 - d. Mitigation of adverse site conditions including slope stabilization measures and seismically unstable soils, if appropriate;
4. **Erosion and Sediment Control Plan.** For any development proposal on a site containing an erosion hazard area, an erosion and sediment control plan shall be required. The erosion and sediment control plan is subject to approval by the County Engineer;
5. **Drainage Plan.** The technical information shall include a drainage plan for the collection, transport, treatment, discharge, and/or recycle of water prepared in accordance with the approval of the County Engineer. The drainage plan should consider on-site septic system disposal volumes where the additional volume will affect the erosion or landslide hazard area;
6. **Mitigation Plans.** Hazard and environmental mitigation plans for erosion and landslide hazard areas shall include the location and methods of drainage, surface water management, locations and methods of erosion control, a vegetation management and/or replanting plan, and/or other means for maintaining long-term soil stability; and
7. **Monitoring Surface Waters.** If the County Engineer determines that there is a significant risk of damage to downstream receiving waters due to potential erosion from the site, based on the size of the project, the proximity to the receiving waters, or the sensitivity of the receiving waters, the technical information shall include a plan to monitor the surface water discharge from the site. The monitoring plan shall include a recommended schedule for submitting monitoring reports to the County.

- B. **Seismic Hazard Areas.** In addition to the basic report requirements, a critical area report for a seismic hazard area shall also meet the following requirements:
1. The site map shall show all known and mapped faults within two hundred (200) feet of the project area or that have potential to be affected by the proposal;
 2. The hazards analysis shall include a complete discussion of the potential impacts of seismic activity on the site (for example, forces generated and fault displacement); and
 3. A geotechnical engineering report shall evaluate the physical properties of the subsurface soils, especially the thickness of unconsolidated deposits and their liquefaction potential. If it is determined that the site is subject to liquefaction, mitigation measures appropriate to the scale of the development shall be recommended and implemented.
- C. **Other Geologically Hazardous Areas.** In addition to the basic requirements, the County Planner may require additional technical information to be submitted when determined to be necessary to the review the proposed activity and the subject hazard. Additional technical information that may be required, includes, but is not limited to:
1. **Site Plan.** The site plan shall show all hazard areas located within two hundred (200) feet of the project area or that have potential to be affected by the proposal; and
 2. **Hazards Analysis.** The hazards analysis shall include a complete discussion of the potential impacts of the hazard on the project area and of the proposal on the hazard.

9.90.070 – Performance Standards

- A. **General Performance Standards.** Except as otherwise provided, the following performance standards shall apply to geologically hazardous areas:
1. The activity will not increase the threat of the geological hazard to adjacent properties beyond pre-development conditions;
 2. The activity will not adversely impact other critical areas;
 3. The activity is designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than pre-development conditions; and
 4. The activity is certified as safe as designed and under anticipated conditions by a qualified engineer or geologist, licensed in the state of Washington.
- B. **Critical Facilities Prohibited.** Critical facilities shall not be sited within geologically hazardous areas unless there is no other practical alternative.
- C. **Performance Standards – Erosion and Landslide Hazard Areas.** Activities on sites containing erosion or landslide hazards shall meet the general performance standards required herein and the specific following requirements:
1. A buffer shall be established from all edges of landslide hazard areas. The size of the buffer shall be determined by the administrative official to eliminate or minimize the risk of property damage, death, or injury resulting from landslides caused in whole or part by the development, based upon review of and concurrence with a critical area report prepared by a qualified professional;
 2. Alterations of an erosion or landslide hazard area and/or buffer may only occur for activities for which a geo-technical analysis is submitted and certifies that:
 - a. The development will not increase surface water discharge or sedimentation to adjacent properties beyond pre-development conditions;

- b. The development will not decrease slope stability on adjacent properties; and
- c. Such alterations will not adversely impact other critical areas.

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

1. The proposed development shall not decrease the factor of safety for landslide occurrences below the limits of 1.5 for static conditions and 1.2 for dynamic conditions. Analysis of dynamic conditions shall be based on a minimum horizontal acceleration as established by the current version of the International Building Code;
2. Structures and improvements shall be clustered to avoid geologically hazardous areas and other critical areas;
3. Structures and improvements shall minimize alterations to the natural contour of the slope, and foundations shall be tiered where possible to conform to existing topography;
4. Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation;
5. The proposed development shall not result in greater risk or a need for increased buffers on neighboring properties;
6. The use of retaining walls that allow the maintenance of existing natural slope area is preferred over graded artificial slopes; and
7. Development shall be designed to minimize impervious lot coverage.

E. **Vegetation Retention.** Unless otherwise provided or as part of an approved alteration, removal of vegetation from an erosion or landslide hazard area or related buffer shall be prohibited.

F. **Utility Lines and Pipes.** Utility lines and pipes shall be permitted in erosion and landslide hazard areas only when the applicant demonstrates that no other practical alternative is available. The line or pipe shall be located above ground and properly anchored and/or designed so that it will continue to function in the event of an underlying slide. Stormwater conveyance shall be allowed only through a high-density polyethylene pipe with fuse-welded joints, or similar product that is technically equal or superior.

G. **Point Discharges.** Point discharges from surface water facilities and roof drains onto or upstream from an erosion or landslide hazard area shall be prohibited except as follows:

1. Conveyed via continuous storm pipe downslope to a point where there are no erosion hazards areas downstream from the discharge;
2. Discharged at flow durations matching pre-developed conditions, with adequate energy dissipation, into existing channels that previously conveyed stormwater runoff in the pre-developed state; and
3. Dispersed discharge upslope of the steep slope onto a low-gradient undisturbed buffer demonstrated to be adequate to infiltrate all surface and stormwater runoff, and where it can be demonstrated that such discharge will not increase the saturation of the slope.

- H. **Subdivisions.** The division of land in landslide hazard areas and associated buffers is subject to the following:
1. Land that is located wholly within a landslide hazard area or its buffer may not be subdivided. Land that is located partially within a landslide hazard area or its buffer may be divided provided that each resulting lot has sufficient buildable area outside of, and will not affect, the landslide hazard or its buffer; and
 2. Access roads and utilities may be permitted within the landslide hazard area and associated buffers if the County determines that no other feasible alternative exists.
- I. **Prohibited Development.** On-site sewage disposal systems, including drain fields, shall be prohibited within erosion and landslide hazard areas and related buffers.
- J. **Performance Standards - Seismic Hazard Areas.** Activities proposed to be located in seismic hazard areas shall meet the standards of Performance Standards - General Requirements (Section 9.90.070(A)).
- K. **Other Hazard Areas.** Activities on sites containing or adjacent to other geologically hazardous areas shall meet the standards of Performance Standards - General Requirements (Section 9.90.070(A)).

SECTION 9.100 FREQUENTLY FLOODED AREAS

9.100.010 - Declaration of Intent

It is the purpose of this zoning district to minimize public and private losses due to flood conditions in specific areas designated by the County, and the Federal Insurance Administration and the accompanying Flood Insurance Study and Flood Insurance Rate Maps (FIRM) dated May 1, 1980, and as may be subsequently amended. This zoning district overlays present or future districts also associated with the property designated on the Flood Insurance Rate Maps which are adopted as part of this Section by reference and does not add to the specified uses, but, may restrict certain specified uses. This district is intended to meet the requirements of the federal government to maintain the County's eligibility for participation in the National Flood Insurance Program. The Flood Insurance Study and FIRM are on file at the Whitman County Planning Department. This Section shall apply to all areas of special flood hazards within the jurisdiction of unincorporated Whitman County.

9.100.020 - Compliance

No structure or land area shall hereafter be constructed, located, extended, converted or altered without full compliance with this district and the district it may overlay.

9.100.030 - Abrogation and Greater Restrictions

The provisions of this district are not intended to repeal, abrogate or impair any existing easements, covenants, deed restrictions or zoning. However, where this district and another district, easement, covenant or deed restriction conflict, or overlap, whichever imposes the more stringent restrictions consistent with flood protection, shall prevail.

9.100.040 - Warning and Disclaimer of Liability

Flooding may occur to such an unpredictable extent that lands or uses outside of the designated flood plain are affected. The creation of this district does not imply that all areas outside of the district will always be safe from flooding.

Therefore, the establishment of this district shall not create liability on the part of the county, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this district's provisions or any administrative decisions lawfully made thereunder.

9.100.050 – Permitted Uses

Within the special flood hazard area, all uses permitted as specified in the zoning district overlaid by the Flood Management Overlay District. However, those uses are subject to the development permit process described in Section 9.100.060 and to special building code requirements.

9.100.060 – Development Permit Required

A development permit shall be obtained before construction or development begins within any area of special flood hazard. The permit shall be for all "structures" including mobile homes, as defined in Whitman County Code (WCC) Section 19.03.420, and for all other "development" including fill and other activities, as defined in Section 19.03.190. A floodplain evaluation is required for routine maintenance of drainages for such purposes of flood control and maintenance of tiling. Application for a development permit shall be made on forms furnished by the County Planning office and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- A. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- B. Elevation in relation to mean sea level to which any structure has been flood-proofed where available flood data relates to depth of flood waters rather than height above mean sea level (e.g. the A-O Zone of the Flood Insurance Rate Map), then the depth of the 100-year flood should be substituted for elevation data;
- C. Certification by a registered professional engineer or architect that the flood-proofing methods for any non-residential structure meet the flood-proofing criteria in Section 9.100.080; and
- D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. (Adopted May, 2003; Resolution No. 061233)

9.100.070 – Permit Review

- A. Review all development permits to determine that the requirements of this Section have been satisfied.
- B. The County Planner is hereby appointed to administer and implement this Section by granting or denying development permit applications in accordance with its provisions.
- C. It is the applicant's responsibility to seek and obtain all of the other Federal, State, or local agency permits that must be obtained for the project. Although Whitman County may use the SEPA or other notification process to inform other jurisdictions and agencies, Whitman County is not liable for the applicant's failure to obtain these permits. The failure of the applicant to obtain these other permits, when brought to Whitman County's attention, is basis for rescinding the County permit. (Adopted May, 2003; Resolution No. 061233)
- D. The County Planner shall review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, the County Planner will assure that the encroachment provisions of Section 9.100.070(E) are met.
- E. When base flood elevation data has not been provided (in A or V Zones) in accordance with Section 9.100.010 Declaration of Intent, the County Planner shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer Sections 9.100.080(B) and (E) – Development Standards.

BOCC MINUTES-04/01/19

- F. The information to be obtained and maintained will be as follows:
1. Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required as in Section 9.100.070(E), obtain and record the actual (as-built) elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement. (Recorded on a current elevation certificate [FF 81-31] with Section B completed by the local official);
 2. For all new or substantially improved flood-proofed non-residential structures where base flood elevation data is provided through the Flood Insurance Study (FIS), FIRM, or as required in Section 9.100.070(E):
 - a. Obtain and record the elevation (in relation to mean sea level) to which the structure was flood-proofed (44 CFR 60.3(b)(5)(ii));
 - b. Maintain the flood-proofing certifications required in Section 9.100.060(C) (44 CFR 60.3(b)(5)(iii)).
 3. Maintain for public inspection all records pertaining to the provisions of this ordinance (44 CFR 60.3(b)(5)(iii)).
- G. Alteration of watercourses (44 CFR 60.3(b)(6)).
1. Notify adjacent communities and the Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
 2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

9.100.080 - Development Standards

- A. Due to the inherent dangers of development within a special flood hazard area, special development, construction and installation standards are necessary. Compliance with these standards must be assured before a development permit will be issued.

These special development requirements shall apply within flood plain areas subject to special flood hazards as shown on the Flood Insurance Rate Map prepared by or for the Federal Insurance Administration and which are discussed within the Flood Insurance Study prepared by or for the Federal Insurance Administration; or, have otherwise been delineated by the County. The map and study are available through the County Engineer's office.

- B. In all areas of special flood hazards, the following standards are required:
1. Anchoring:
 - a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
 - b. All mobile/manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).
 2. Construction Materials And Methods:
 - a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
 - b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage;
 - c. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or

otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

3. Utilities:
 - a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
 - b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;
 - c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and
 - d. Water wells shall be located on high ground that is not in the floodway.
 4. Subdivision Proposals:
 - a. All subdivision proposals shall be consistent with the need to minimize flood damage;
 - b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
 - c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
 - d. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or five acres (whichever is less).
 5. Review of Building Permits. Where elevation data is not available either through the Flood Insurance Study, FIRM or from another authoritative source [Section 9.100.070(E)], applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two (2) feet above grade in these zones may result in higher insurance rates.
- C. In addition to meeting the requirements of Sections 1 and 2 of this part of the Code, the following standards shall also apply where the anticipated elevation of a flood having a 100 year or more frequent expectation of occurrence, has been developed and shown on a map or in a report adopted by the County.
1. Residential Construction:
 - a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one (1) foot or more above base flood elevation; (Adopted May, 2003; Resolution No. 061233)
 - b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
 - i. A minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided;
 - ii. The bottom of all openings shall be no higher than one (1) foot above grade; and
 - iii. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
 2. Non-Residential Construction. New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated one (1) foot or more

above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- a. Be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
 - c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the County Engineer;
 - d. Non-residential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in Section 9.100.080(C) (1); and
 - e. Applicants flood-proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one (1) foot below the flood-proofed level (e.g. a building constructed to the base flood level will be rated as one (1) foot below that level).
(Adopted May, 2003; Resolution No. 061233)
3. Mobile/Manufactured Homes. All mobile/manufactured homes to be placed or substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is one (1) foot or more above the base flood elevation and is securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 9.100.080(B) (1) (b). (Adopted May, 2003; Resolution No. 061233)
4. Critical Facility. Construction of new critical facilities shall be, to the extent possible, located outside of the limits of the special flood hazard area (100-year floodplain). Construction of new critical facilities shall be permissible within the special flood hazard area if no feasible alternative site is available. Critical facilities constructed within the special flood hazard area shall have the lowest floor elevated three (3) feet. Access to and from the critical facility should also be protected to that height. Flood proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of base flood elevation shall be provided to all critical facilities to the extent possible.
5. Recreational Vehicles. Recreational vehicles by Whitman County code are allowed in locations where RV Parks, storage and campgrounds have been permitted. In general, these facilities are not and have not been allowed within flood hazard areas. If a permit is granted to allow RV sites within a floodplain, the following additional requirements apply:
- a. The RV can be on-site for fewer than 180 consecutive days; and
 - b. The RV must be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
 - c. Meet the requirements of Section 9.100.080(C) (3) and the elevation and anchoring requirements for manufactured homes.

BOCC MINUTES-04/01/19

- D. AE and A1-30 Zones with Base Flood Elevations but no Floodways. In areas with base flood elevations (but a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.
- E. Floodways. Areas designated as floodways are located within areas of special flood hazard established in Section 9.100.050. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris, and increase erosion potential, the following provisions apply:
1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer licensed in the State of Washington is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge. In addition, the developer and the developer's professional engineer licensed in the State of Washington shall be responsible for periodic inspections, routine channel clearing and other related functions of the altered floodway's maintenance. (Adopted May, 2003; Resolution No. 061233)
 2. Construction or reconstruction of residential structures is prohibited within designated floodways, except for (i) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and (ii) repairs, reconstruction or improvements to a structure, the cost of which does not exceed fifty (50) percent of the market value of the structure either, (A) before the repair or reconstruction is started, or (B) if the structure has been damaged, and is being restored, before the damage occurred. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or to structures identified as historic places, may be excluded in the fifty (50) percent.
 3. If Section 9.100.080(E)(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 9.100.080- Development Standards. (Amended March 19, 2012, Ordinance #072876)

Section 9.100.090 – Variance Standards

Refer to Chapter 19.06, Section 030.

Appendix 1**Whitman County List of Priority Habitats and Species**

	Species/Habitat	State Status	Federal Status	Important Note
Habitats	Aspen Stands			These are the species and habitats Identified for Whitman County. This list of species and habitats was developed using the distribution maps found in the Priority Habitat and Species (PHS) List (see http://wdfw.wa.gov/conservation/phs/). Species distribution maps depict counties where each priority species is known to occur as well as other counties where habitat primarily associated with the species exist. Two assumptions were made when developing distribution maps for reach species: 1. There is a high likelihood a species is present in a county, even if it has not been directly observed, if the habitat it is primarily associated with exists. 2). Over time, species can naturally change their distribution and move to new counties where usable habitat exists. Distribution maps in the PHS List were developed using the best information available. As new information becomes available, known distribution for some species may expand or contract. WDFW will periodically review and update the distribution maps in the PHS List.
	Biodiversity Areas and Corridors			
	Eastside Steppe			
	Shrub-Steppe			
	Riparian			
	Freshwater Wetlands & Fresh Deepwater			
	Instream			
	Caves			
	Cliffs			
	Snags & Logs			
	Talus			
Fishes	Pacific Lamprey			
	River Lamprey	Candidate	Species of Concern	
	White Sturgeon			
	Leopard Dace	Candidate		
	Mountain Sucker	Candidate		
	Bull Trout/Dolly Varden	Candidate*	Threatened*	
	Chinook Salmon	Candidate	Threatened (Upper Columbia spring run is endangered)	
	Rainbow Trout/Steelhead/Inland Redband Trout	Candidate**	Threatened**	

BOCC MINUTES-04/01/19

	Sockeye Salmon	Candidate	Threatened - Ozette Lake Endangered - Snake River	
	Westslope Cutthroat			
Amphibians	Columbia Spotted Frog	Candidate		
	Western Toad	Candidate		
Reptiles	Sagebrush Lizard	Candidate		
Birds	American White Pelican	Endangered		
	E. WA breeding concentration of Grebes & Cormorants			
	E. WA breeding Terns			
	Great Blue Heron			
	Waterfowl concentration			
	Bald Eagle		Species of Concern	
	Ferruginous Hawk	Threatened		
	Golden Eagle	Candidate		
	Prairie Falcon			
	Chukar			
	Ring-Necked Pheasant			
	Wild Turkey			
	Upland Sandpiper	Endangered		
	E. WA breeding occurrences of Phalaropes, Stilts and Avocets			
	Burrowing Owl	Candidate		
	Vault's Swift	Candidate		
	Pileated Woodpecker	Candidate		
	Loggerhead Shrike	Candidate		
	Sagebrush Sparrow (formerly Sage Sparrow)	Candidate		
	Sage Thrasher	Candidate		
Mammals	Roosting concentrations of Big-brown Bat, Myotis Bats, Pallid Bat			
	Townsend's Big-eared Bat	Candidate		
	Black-tailed Jackrabbit	Candidate		
	White-tailed Jackrabbit	Candidate		
	Washington Ground Squirrel	Candidate	Candidate	
	Moose			
	Northwest White-tailed Deer			
	Elk			
	Rocky Mountain Mule Deer			
Invertebrates	Columbia River Tiger Beetle	Candidate		
	Mann's Mollusk-eating Ground Beetle	Candidate		
	Giant Palouse Earthworm	Candidate		
	Shepard's Parnassian	Candidate		
	Silver-bordered Fritillary	Candidate		

* Bull Trout only

** Steelhead only

(Revised 12/15/14 by Ordinance #076154

081463 **35.** Commissioner Largent **moved** Commissioner Kinzer **seconded** the motion and **carried** to approve publishing the notice to call for bids on the Guardrail Safety project when authorization is received from WSDOT.

081464 **36.** Commissioner Largent **moved** Commissioner Kinzer **seconded** the motion and **carried** to approve publishing the notice to call for bids on the Pavement Markings and Rumble Strips Safety project when authorization is received from WSDOT.

DIVISION UPDATES:

D081464A 37. The following division updates provided by Public Works staff.

Engineering Division:

D081464B 37A. Dean Cornelison provided an update on the Almoda Road Phase IV project. He stated staff is working with the landowners on right-of-way acquisition, the design plans are 95% complete and do not include any passing lanes and they hope to be in a position by the end of April to request certification from WSDOT. During the construction the road will be closed at times from July-September.

Maintenance Division:

D081464C 37B. Mr. Cornelison said road restrictions have been lifted this morning off of some roads west of Almoda and south of Highway 23. District 2 will remove restrictions later this week weather permitting. Maintenance crews are grading and hauling gravel on open roads.

D081464C 38. Approved documents signed.

11:40 p.m. - Recess.

1:00 p.m. - Reconvene/Board Business Continued/BOCC Workshop.

Present: Gary Petrovich.

081465 39. The following items were discussed but no action was taken.

- Public Facilities (.09) Priorities

2:00 p.m. - State Auditor's Office Examiners.

Present: Molly Mohr, Jonna Davis, Cynthia Haywood, Jessica Jensema, Sharron Cunningham, Annie Pillers, Gary Petrovich, Kelli Campbell, Lance Bishop, Robin Jones, Evon Jones, Bailey Wiedmer, Glenda Scheideman, Wraylee Flodin, Chris Nelson, Sandy Jamison, Kristina Cooper, Troy Henderson and Jacob Jones.

081466 40. The exit conference for the Whitman County Accountability audit for January 1, 2017-December 31, 2017 was held. There were no audit findings, one management letter.

- Areas examined during this audit period included:
- Cash receipting and petty cash review in selected departments
- Credit card and fuel card purchases
- Procurement for purchases-competitive bids, sole source and vendor roster
- Parks Department safeguarding of theft sensitive assets
- Compliance with bond covenants
- Information Technology internal service fund billings
- Unemployment self-insurance
- Superior Court Clerk's office limited review of software system
- Review of prior audit findings
- Federal grant programs

2:30 p.m. - Recess.

BOCC MINUTES-04/01/19

2:45 p.m. - Board Business Reconvened/BOCC Workshop.

Present: Robin Jones, Gary Petrovich, Chris Nelson, Wraylee Flodin, Sharron Cunningham, Jessica Jensema and Sandy Jamison (2:45 p.m.).

081467-081468 41-42. The following items were discussed but no action was taken.

- Tax Refunds
- Tekoa P&R District #6 Loan Request

D081468A THE BOARD OF WHITMAN COUNTY COMMISSIONERS met in their Chambers in the Whitman County Courthouse, Colfax, Washington for **Tuesday, April 2, 2019 at 8:30 a.m.** Chairman Arthur D Swannack, Michael Largent, Commissioners and Maribeth Becker, CMC, Clerk of the Board attended. Commissioner Kinzer was unavailable for today's session.

8:30 a.m. - Reconvene/Board Business Continued/Executive Session.

Present: Bill Tensfeld (8:30 a.m.), Troy Henderson (9:30 a.m.), Mark Storey (10:30 a.m.).

081469 43. Commissioner Largent **moved** Commissioner Kinzer **seconded** the motion and **carried** to go into executive session with the above individual until 11:30 a.m. in accordance with RCW 42.30.110(1)(g) for matters related to employee evaluations.

11:30 a.m. - Return to Open Session/Recess.

1:00 p.m. - Reconvene/Board Business Continued/Executive Session.

Present: Maribeth Becker (1:00 p.m.), Kelli Campbell (2:00 p.m.), Gary Petrovich (3:00 p.m.) and Lance Bishop (4:00 p.m.).

081470 44A. Commissioner Largent **moved** Commissioner Kinzer **seconded** the motion and **carried** to go into executive session with the above individual until 5:00 p.m. in accordance with RCW 42.30.110(1)(g) for matters related to employee evaluations.

5:00 p.m. - Return to Open Session/Recess to Monday, April 8th.

D081470A THE BOARD OF WHITMAN COUNTY COMMISSIONERS met at City Hall in the Council Chambers, Pullman, Washington for a **Special Meeting on Tuesday, April 2, 2019 at 6:00 p.m.** Chairman Arthur D Swannack, Michael Largent and Dean Kinzer, Commissioners and Maribeth Becker, CMC, Clerk of the Board attended.

Present: Administrative Services Director Gary Petrovich, County Prosecutor Denis Tracy, District Court Judge John Hart, Pullman Mayor Glenn Johnson, Pullman Councilmembers Brandon Chapman, Eileen Maccoll, Ann Parks, Dan Records, Al Sorensen, Nathan Weller and Patricia Wright; City Attorney Laura MacAloon, City Supervisor Adam Lincoln, other Pullman staff members, members of the general public and media.

081471 45. The issue discussed was the future of Pullman District Court and its location.

Areas addressed:

- Gladish Center is not an option
- County leasing space at the new City Hall/cost
- County leasing space in the old City Hall/cost
- All District Court in Colfax
- Transportation to Colfax for District Court
- District Court caseload-50% generated by Pullman
- Pullman contracted caseload-Pullman Municipal Court

BOCC MINUTES-04/01/19

- Pullman Misdemeanor/Gross Misdemeanor caseload
- Possibility of expanding old City Hall into a Public Safety Building
- Cost of maintaining old City Hall
- Court Security
- Security infrastructure installed at new city hall
- Pullman filing fees cost
- City's exposure if District Court continues to be held at the old City Hall
- Court Improvement Funds

Meeting outcome:

- The consensus of Pullman City Council is to keep District Court in Pullman.
- Both city and county are to develop a list of items to explore.
- The need for hard numbers for different options is to be developed by both staffs.
- The deadline for resolution of this issue is July 1, 2019.

7:20 p.m. - Special Meeting Adjourned.

D081471A THE BOARD OF WHITMAN COUNTY COMMISSIONERS met in their Chambers in the Whitman County Courthouse, Colfax, Washington for **Monday, April 8, 2019 at 9:00 a.m.** Chairman Arthur D Swannack, Michael Largent and Dean Kinzer, Commissioners and Maribeth Becker, CMC, Clerk of the Board attended.

9:00 a.m. - Reconvene/Board Business Continued.

D081471B 46. Approved consent agenda items signed.

081472 47. Treasurers Wire Transfers and Check Report in the amount of **\$346,119.14**, **Payroll** warrants numbered **341987-341992** for **\$598,427.16** and General/Veterans' Relief/Payroll warrants numbered **341996-342143** for **\$73,962.06** approved.

081473-081485 48. Personnel change orders.

9:05 a.m. - BOCC Workshop.

Present: Gary Petrovich, Chris Nelson, Wraylee Flodin, Sandy Jamison, Kelli Campbell, Lance Bishop, Jana Mathias (9:05 a.m.).

081486 49. The following items were discussed but no action was taken.

- | | |
|-------------------------------|-------------------------------|
| • McMorris-Rodgers Staffer | • SAO-Tekoa/Whitcom .09 Funds |
| • Coroner's Office | • 2019-2020 CDBG-PS Grant |
| • Pullman District Court | • Legal Printing/Daily News |
| • US Census Voluntary Program | • Judicial Complaint |
| • ADA Physical Review | • Lamont Road Meeting |
| • County Website/Malden | |

10:05 a.m. - Adjournment.

D081486A Commissioner Largent **moved** to adjourn the **April 1, 2 and 8, 2019** meeting. Motion **seconded** by Commissioner Swannack and **carried**. The Board will meet in regular session, in their Chambers' in the Whitman County Courthouse, Colfax, Washington on **April 15, 2019**. The foregoing action made this **8th** day of **April 2019**.

ss/ DEAN KINZER, COMMISSIONER
ss/ MICHAEL LARGENT, COMMISSIONER

MARIBETH BECKER, CMC
Clerk of the Board

ARTHUR D SWANNACK, CHAIRMAN
Board of County Commissioners