Chapter 4.010 - CRITICAL AREAS ORDINANCE

4.010.010 Authority and title

This chapter is established pursuant to RCW 36.70A.060. Chapter 4.010 is known as the Winlock Critical Areas Ordinance.

4.010.020 Purpose

The purpose of this chapter is to implement the open space policies of the Winlock comprehensive plan and the elements of the Washington State Growth Management Act. This chapter creates an overlay district that requires the conservation and/or enhancement of identified critical areas, and gives special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries while encouraging urban densities and affordable housing through density transfer to non-critical (buildable) lands.

Critical areas are valuable and potentially fragile natural resources that, in their natural state, provide many valuable social and ecological functions. The attendant buffers of critical areas are essential to the maintenance and protection of the functions and values of critical areas. The loss of social and

ecological functions provided by critical areas, especially wetlands, riparian zones and fish and wildlife habitat, results in a detriment to public safety and welfare.

Critical areas help to relieve the burdens on the people of Winlock which urban development can create including congestion, noise and odors, air pollution, and water quality degradation.

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

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

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

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

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

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

4.010.030 Definitions

For the purposes of this chapter the definitions set forth in this chapter and Chapter 18.040 of the Winlock Development Code (WDC) shall apply. Unless specifically defined in this chapter or Chapter 18.040 WDC, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this title it's most reasonable application.

Administrator	"Administrator" means the Mayor or his or her designee.
Aesthetics	"Aesthetics" means a characteristic of development or the environment relating to physical beauty.
Agricultural uses	"Agricultural uses" shall mean the use of the land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture and wineries, apiaries, and animal and poultry husbandry, and the necessary accessory uses for storing produce; provided, however, that the operation of any such accessory use shall be incidental to that of normal agricultural activities; and provided further, that the above uses shall not include slaughterhouses and meat packing or commercial feeding of animals.
Alter	"Alter" means to adjust, modify or rework a structure or parcel of land.
Altered	"Altered", when referring to wetlands, means a wetland of which at least 50 percent has been graded, drained, de-vegetated, or replanted with non-wetland plants.
Anadromous	"Anadromous" means fish that migrate up rivers and streams from the ocean to breed in fresh water.
Aquifer	"Aquifer" means a saturated permeable geologic unit that can transfer substantial quantities of water under ordinary hydraulic gradients.
Aquifer recharge area	"Aquifer recharge area" means the area in which rainwater and other surface waters percolate downward through surface soil and underlying geologic formations that are permeable enough to allow significant additions of water to an underlying aquifer.
Area of shallow flooding	"Area of shallow flooding" means areas designated AO or AH Zone on the flood insurance rate map (FIRM). The base flood depths range from one to three feet, a clearly defined channel does not exist, the path of flooding is unpredictable and indeterminate, and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.
Area of special flood hazard	"Area of special flood hazard" shall mean the land in the flood plain subject to a one percent chance or greater of flooding in any given year as shown on flood insurance rate maps (FIRM) or except as otherwise determined by the Federal Emergency Management Agency (FEMA).
Base Flood	"Base flood" shall mean the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year" flood.
Basement	"Basement" means any floor level below the first story in a building, except that a floor level in a building having only one floor level shall be classified as a basement unless such floor level qualifies as a first story as defined herein.
Best available information	"Best available information" means data, other than official flood insurance rate map data, from federal, state, or other sources, provided this data has either been generated using technically defensible methods or is based on reasonable historical analysis and experience.

Best available science (BAS)	"Best available science" means a valid scientific process or method of inquiry that is consistent with the criteria for establishing best available science as found in WAC 365-195-900, as amended.
Best management practices (BMPs) – Aquifer recharge areas	"Best management practices (BMPs)," for the aquifer recharge areas section, means physical, structural, and or managerial practices that when used singly, or in combination, prevent or reduce the adverse environmental impacts to or pollution of ground water. Such practices may include schedules of activities, prohibitions of practices, maintenance procedures, and other management practices, to prevent or reduce pollution of ground water. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage, leaks, sludge, or water disposal, or drainage for raw material storage.
BMPs - Stormwater	When associated with stormwater management means physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water; when associated with groundwater protection means a written plan outlining accepted practices, such as liquid containment, transfer practices, and emergency procedures whose purpose is to provide containment for underground storage tanks.
BMPs – Wetlands	"Best management practices" for the wetlands section, means conservation practices or systems of practices and management measures that: (1) Control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxics, and sediment; and (2) Minimize adverse impacts to surface water and ground water flow, circulation patterns, and to the chemical, physical, and biological characteristics of wetlands.
Buffer - Generally	"Buffer" means an area that abuts or surrounds a critical area that is necessary to protect the integrity of the functions and values of the critical area.
Buffer – Geologic hazard	For purposes of geologically hazardous areas, a "buffer" means an undisturbed area preserved to provide an assurance that activities that subject people or property to risk will be located out of the area of influence of landslides or similar geological hazards and for the protection of native vegetation to provide slope stability and reduce the risk of erosion.
Buffer – Wetland, stream and habitat area	For purposes of the wetland, stream and habitat critical area sections, a "buffer" means an undisturbed area of vegetation to protect the integrity, functions, and values of the affected ecological processes, including hydrologic, physical and habitat and shall reflect the sensitivity of the resource and the type and intensity of human activity proposed to be conducted nearby.

Channel migration zone	"Channel migration zone" means the area along a river or stream within which the channel can reasonably be expected to migrate over time as a result of normally occurring processes. It encompasses that area of current and historic lateral stream channel movement that is subject to erosion, bank destabilization, rapid stream incision, and/or channel shifting, as well as adjacent areas that are susceptible to channel erosion.
City	"City" means a Class 4 municipality governed by the mayor and Winlock city council, or the city designee.
Clearing	The act of removing existing vegetations, structures or other items from a site prior to undertaking land improvements.
Coastal high hazard area	"Coastal high hazard area" means the area subject to high velocity waters, including but not limited to storm surge or tsunamis. This area is designated on a flood insurance rate map (FIRM) as Zone V1-30, VE or V.
Conservation covenant	"Conservation covenant" means a recorded instrument entered into pursuant to a condition of approving a triggering application.
Construction	"Start of construction" means the date the building permit was issued, provided the actual start of construction, placement of a manufactured home on a foundation, or other permanent construction beyond the stage of excavation, was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. "Permanent construction" does not include: • Land preparation, such as clearing, grading and filling; • Installation of streets and/or walkways; • Excavation for a basement, footings, piers, or foundation or the erection of temporary forms; and • Construction of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.
Council	"Council" means the council of the city of Winlock.
Creation (establishment)	"Creation (Establishment)" means the manipulation of the physical, chemical, or biological characteristics present to develop a critical area where a critical area did not previously exist. Activities typically involve excavation of upland soils to elevations that will produce a wetland hydroperiod, create wetland soils and support the growth of hydrophytic plant species. Creation results in a net gain of wetland acres.

Critical area(s)	"Critical Areas" means any of the following areas or ecosystems: wetlands, critical aquifer recharge areas, streams, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas as defined by the Growth Management Act (RCW 36.70A.170).
Critical area function	"Critical area functions" means the physical, chemical, and biological processes or attributes of a critical area.
Critical area values	"Critical area values" means the critical area processes or attributes that are valuable or beneficial to society
Critical facility	"Critical facility" means a facility for which even a slight chance of flooding or a geological hazard would be too great. Critical facilities include but are not limited to schools, hospitals, police, fire and emergency response installations, nursing homes, and installations which produce, use, or store hazardous materials or hazardous waste.
Dangerous wastes	"Dangerous wastes" means those wastes designated in WAC 173-303-070 through 173-303-120 as dangerous or extremely hazardous or mixed waste. As used in Chapter 173-303 WAC, the words "dangerous waste" will refer to the full universe of wastes regulated by that chapter, and will be used interchangeably with "hazardous waste."
Design Storm	A prescribed hyetograph and total precipitation amount (for a specific duration recurrence frequency) used to estimate runoff for a hypothetical storm of interest or concern for the purposes of analyzing existing drainage, designing new drainage facilities or assessing other impacts of a proposed project on the flow of surface water. (A hyetograph is a graph of percentages of total precipitation for a series of time steps representing the total time during which the precipitation occurs).
Detention Facility	An above- or below-ground facility, such as a pond or tank, that temporarily stores stormwater runoff and subsequently releases it at a slower rate than it is collected by the drainage facility system. There is little or no infiltration of stored stormwater.
Development	"Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.
Development Right	A legal claim to convert a tract of land to a specific purpose by construction, installation, or alteration of a building or other structure.
Domestic Animal	An animal normally kept incidental to a single-family dwelling. Included are dogs and cats; excluded are wild or exotic animals, horses and cows, chickens, goats, or other similar animals.
Drainage	The removal of surface water or groundwater from land by drains, grading, or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during and after development and includes the means necessary for water supply preservation, prevention, or alleviation of flooding.
Drainage Basin	A geographic and hydrologic subunit of a watershed.

Elevation	"Elevation" shall mean: (1) The vertical distance above or below a fixed reference level or, (2) a flat scale drawing of the front, rear, or side of a building or structure.
Emergent wetland	"Emergent wetland" means a wetland with at least 30 percent of the surface area covered by erect, rooted, herbaceous vegetation as the uppermost vegetative strata.
Endangered species	"Endangered species" means fish and wildlife species native to Washington that are seriously threatened with extinction throughout all or a significant part of their ranges within the state.
Energy-efficient structure	"Energy-efficient structure" shall mean a structure designed and built to comply with the annual thermal performance standards established by the Northwest Power Planning Council as the Model Conservation Standards.
Enhancement	"Enhancement" means actions performed to improve the condition of an existing degraded wetland or buffer so that the functions provided are of a higher quality.
Environment	The physical, social and economic conditions that exist within the area which will be affected by a proposed project
Environmentally sensitive lands, potential	"Potential environmentally sensitive lands" are lands shown on the city zoning map as an overlay to demonstrate areas which may contain wetlands, steep slopes, or other similar environmentally critical features which may limit or prevent construction.
Erosion	The detachment and movement of soil or rock fragments by water, wind, and/or gravity.
Erosion control	"Erosion control" means on-site and off-site control measures that are needed to control conveyance and/or deposition of earth, turbidity or pollutants after development, construction, or restoration.
Erosion hazard areas	"Erosion hazard areas" means those areas identified by the United States Department of Agriculture Soil Conservation Service as having severe or moderate rill and inter-rill erosion hazard and areas subject to severe or moderate stream bank erosion.
Exotic	"Exotic" means any species of plants or animals that are not native to the watershed.
Fill	Earth or any other approved substance or material

Fish and wildlife conservation areas	"Fish and wildlife habitat conservation areas" means land area which meets the definition thereof pursuant to WAC 365-190-080(5) and includes all lands within the following categories: 1. Areas with which endangered, threatened, and sensitive species have a primary association including areas with which "priority species" as defined by the Washington Department of Wildlife have a primary association. 2. "Priority habitats" as identified by the Washington Department of Fish and Wildlife. Priority habitats are areas with one or more of the following attributes pertaining to state species listed as endangered or threatened: comparatively high wildlife density, high wildlife species richness, significant wildlife species richness, significant wildlife breeding habitat, significant wildlife seasonal ranges, significant movement corridors for wildlife, limited availability, and/or high vulnerability. 3. Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat. These do not include ponds deliberately designed and created from dry sites such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds of less than three years' duration, and landscape amenities. However, naturally occurring ponds shall include those artificial ponds intentionally created with the approval of a regulatory authority from dry areas to mitigate adverse impact upon other ponds. 4. Lakes, ponds, streams, and rivers planted with game fish as defined by RCW 77.08.020, including fish planted under the auspices of federal, state, local, or tribal programs, or which support priority fish species as identified by the Washington Department of Fish and Wildlife. 5. Habitats and species of local importance; as designated in this Chapter. 6. Waters of the state as defined in Title 222 WAC 222. 7. State natural area preserves and natural resource conservation areas.
Flood or flooding	"Flood" or "flooding" means a general or temporary condition of partial or complete inundation of normal 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 rate map	"Flood insurance rate map (FIRM)" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
Flood insurance study	"Flood insurance study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

Flood protection elevation	"Flood protection elevation" means one foot above the base flood elevation.
Flooded - frequently	Frequently flooded means a flooding class in which flooding is likely to occur often under normal weather conditions (more than 50 percent chance of flooding in any year or more than 50 times in 100 years).
Floodway	"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. For areas of special flood hazard studied in detail, the floodway boundary is delineated upon the flood insurance study maps. In all other areas of special flood hazard, the floodway boundary shall be determined by the use of other base flood data.
Floodway - designated	"Designated floodway" means the regulatory floodway that has been delineated on the FIRM or the flood boundary-floodway map (FBFM) or a community's flood insurance study and is included in the community's flood damage prevention ordinance.
Floodway fringe	"Floodway fringe" shall mean the land between the boundary of the floodway and the limits of the 100-year floodplain. In those special flood hazard areas where the floodway boundary is not delineated upon flood insurance study maps, the floodway fringe area shall be determined by the use of other base flood data, as described in WDC 4.010.030 (3)(q)(iii).
Floor (lowest)	"Floor(lowest)" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this title.
Function(s)	"Function(s)" means the beneficial roles served by wetlands including the control of flood waters, maintenance of summer stream flows, filtration of pollutants, recharge of ground water, and provision of significant habitat areas for fish and wildlife.
Groundwater	The portion of water contained in interconnected pores or fractures in a saturated zone or stratum located beneath the surface of the earth or below a surface water body
Groundwater Management	The management and coordination of groundwater regulations, strategies, polities, and technical information for the protection and use of groundwater resources
Habitat	"Habitat" means the environment occupied by individuals of a particular species, populations or community.
Habitat area - local	"Local habitat area" means an area that contains sufficient food, water, or cover for native terrestrial or aquatic species that the city of Winlock has identified in this chapter as being of significant local concern.

Hazard area - landslide	"Landslide hazard areas" means areas potentially subject to landslides based on a combination of geologic, topographic, and hydrogeologic factors. They include areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors.
Habitat management plan	"Habitat management plan" means a plan prepared for a regulated wildlife habitat critical area and intended to provide for the site-specific protection of endangered, threatened, and sensitive species and their habitats. The plans are to be based on the unique characteristics of the species, as well as surrounding land uses in relation to the proposed activity and landowner goals
Habitat - priority	"Priority habitat" is a habitat type with unique or significant value to many species. An area identified and mapped as priority habitat has one or more of the following attributes: Comparatively high fish and wildlife density, comparatively high fish and wildlife species diversity, important fish and wildlife breeding habitat, important fish and wildlife seasonal ranges, limited availability, high vulnerability to habitat alteration, or unique or dependent species. The Washington State Department of Fish and Wildlife maintains a list of maps and priority species that occur within the state and Winlock.
Habitat – riparian area	"Riparian habitat area" is defined as areas adjacent to aquatic systems with flowing water (e.g., rivers, perennial or intermittent streams, seeps, springs) that contain elements of both aquatic and terrestrial ecosystems which mutually influence each other.
Hazard – geological area	"Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.
Hazard tree	"Hazard tree" means any tree that is susceptible to immediate fall due to its condition (damaged, diseased, or dead) or other factors, and which because of its location is at risk of damaging permanent physical improvements to property or causing personal injury.
Hazardous substance	"Hazardous substances" means 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	"Hazardous waste" shall mean all dangerous and extremely hazardous waste as defined in RCW 70.105.010 except for moderate-risk waste. RCW 70.105.010 is adopted by reference for the purposes of this definition.
Hazardous waste treatment	"Hazardous waste treatment" shall mean the physical, chemical, or biological processing of dangerous waste to make wastes nondangerous or less dangerous, safer for transport, amenable for energy or material resource recovery, amenable for storage, or reduced in volume.

Hazardous waste storage	"Hazardous waste storage" shall mean the holding of dangerous waste for a temporary period as regulated by State Dangerous Waste Regulations, Chapter 173-303 WAC. For purposes of this title, Chapter 173-303 WAC as existing and hereafter amended is adopted by reference.
Headwaters	"Headwaters" means springs, lakes, ponds, or wetlands providing significant sources of water to a stream.
Hydric soil	"Hydric soil" means 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 a hydric soil shall be determined following the methods described in the Washington State Wetland Identification and Delineation Manual (RCW 36.70A.175).
Hydrophytic vegetation	"Hydrophytic vegetation" means macrophytic plant life growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content. The presence of hydrophytic vegetation shall be determined following the methods described in the wetlands delineation manual.
Impervious surfaces	"Impervious surface" means a hard surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development or that causes water to run off the surface in greater quantities or at an increased rate of flow compared to natural conditions prior to development. Common impervious surfaces may include, but are not limited to, roof tops, 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 storm water. Impervious surfaces do not include surface created through proven low impact development techniques.
Improvement	Any building, structure, place, work of art, or other object constituting a physical betterment of real property, or any part of such betterment
Infiltration	"Infiltration" means the downward entry of water into the immediate surface of soil.
Intermittent stream	"Intermittent stream" means surface streams with no measurable flow during 30 consecutive days in a normal water year.
JARPA	"JARPA means "Joint Aquatics Resource Permit Application.
Land clearing	The exposure of earth by the removal of vegetative cover of any kind
Land disturbing activity	Any activity that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to demolition, construction, clearing, grading, filling and excavation

Manufactured home	"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.
Minimizing	"Minimizing impacts to wetlands or buffers" means: 1. Using appropriate and best available technology or best available science; 2. Taking affirmative steps to avoid or reduce impacts; 3. Sensitive site design and siting of facilities and construction staging areas away from regulated wetlands and their buffers; 4. Providing protective measures such as siltation curtains, hay bales and other siltation prevention measures, scheduling the regulated activity to avoid interference with wildlife and fisheries rearing, resting, nesting or spawning activities; 5. Not jeopardizing the continued existence of endangered, threatened, rare, sensitive, or monitor species as listed by the federal government or the state of Washington.

Mitigation	"Mitigation" means actions taken to replace, compensate for, or enhance critical area functions impacted by a land use development permitted under this chapter. Mitigation actions include: 1. Creation (Establishment) is the manipulation of the physical, chemical, or biological characteristics within a critical site where the resource did not previously exist. Establishment results in a gain in area. Activities related to wetlands 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. 2. Enhancement is the manipulation of the physical, chemical, or biological characteristics of a site to heighten, intensify, or improve specific ecologic 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 ecological functions and can lead to a decline in other ecological functions, but does not result in a gain in area. Activities related to wetlands 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. 3. Re-establishment is 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. Reestablishment results in a gain in wetland acres (and functions). Activities related to wetlands could include removing fill material, plugging ditches, or breaking drain tiles. 4. Rehabilitation is 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 ecological function but does not result in a gain in area. Activities related to wetland mitigation could involve breaching a dike to reconnect wetlands to a floodplain or return tidal influence to a wetland. 5. Restoration is 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 re-establishment and rehabilitation. Re-establishment represents a net gain in acres while rehabilitation does not.

Mitigation sequence	"Mitigation Sequence" is the order of action that the approving agency shall require so as to avoid or compensate for impacts to critical areas resulting from the proposed project activity. The type(s) of mitigation required shall be considered and implemented, where feasible, as determined by the city, in the following sequential order of preference: 1. Avoiding the impact by not taking a certain action or parts of an action; 2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation; 3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment; 4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; 5. Compensating for the impact by replacing or providing substitute resources or environments; or 6. Monitoring the impact and taking appropriate corrective measures to achieve the identified goal.
Native	"Native," when referring to plants or plant communities, means those species or communities that are indigenous to the watershed, including extirpated species.
New construction	"New construction" means structures for which the "start of construction" commenced on or after the effective date of this title.
Normal water year	"Normal water year" means a 12-month period (October 1st through September 30th) with average precipitation based upon data from the past 50 years.
Obligate, facultative and facultative wet	"Obligate," "facultative wet," and "facultative" refer to groupings of plants according to their frequency of occurrence in wetlands. Obligate wetland plants almost always (99 percent probability) occur in wetlands under natural conditions. Facultative wet plants usually (67 to 99 percent probability) occur in wetlands. Facultative plants are equally likely (34 to 66 percent probability) to occur in wetlands or non-wetlands. Such groupings are more fully defined in the wetlands delineation manual.
Open space	An area that is intended to provide light and air, and is designed for environmental, scenic or recreational purposes. Open space may include, but is not limited to, lawns, decorative planting, walkways, active and passive recreation areas, golf courses, playgrounds, fountains, swimming pools, wooded areas, water courses, driveways, and other surfaces designed or intended for vehicular travel, but shall not include any required off -street parking areas
Open space, common	An area within or related to a development, not in individually owned lots or dedicated for public use, but that is designed and intended for the common use and enjoyment of the residents of a development
Open water	"Open water," when not specifically defined by the rating criteria, means a proportion of open water to vegetative cover equal to 25 percent to 75 percent of the total wetland area during a majority of a normal water year.

Ordinary high water mark (OHWM)	"Ordinary High Water Mark" on all lakes, streams, and tidal water is that mark that will be found by examining the bed and bands and ascertaining where the presence and action of waters are so common and usual, and so long continued in 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 department: PROVIDED, That in any area where the ordinary high water line cannot be found, the ordinary high water line adjoining saltwater shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be line of high water. (RCW 90.58.030(2)(b).)
Peer review	"Peer review" is the assessment of the work produced by a qualified professional by one or more additional professionals qualified in the same area of expertise, consistent with the requirements of this chapter. A qualified professional for the purposes of peer review shall be a neutral third party independent from the City and the applicant. In the event that the City requires "peer review" of a report submitted by an applicant, the peer review process shall be accomplished in one of two manners: 1. The applicant may elect to use a Washington State agency, responsible for the oversight of the critical area in question, e.g. Department of Ecology, Department of Fish and Wildlife, etc. The applicant shall request in writing, that the City suspend processing of the underlying land use application until the qualified state agency releases its final peer review report on the applicant's report in question. The City shall accept the peer review report produced by the state agency. 2. In the event that the applicant does not elect to rely upon state agency review, the City shall select the qualified professional and the applicant shall reimburse the City for the services and expenses of the peer review person(s). The City shall not issue land use approval until it has been fully reimbursed for said fees and services. The peer review process shall take place within the timelines established for the land use application in question. The City may elect to accept the peer reviewed report or the applicant's report.
Permit	Any license, certificate, approval, or other entitlement for use granted by any public agency
Person	"Person" means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or any agency of the state or local governmental unit however designated.

Preservation	"Preservation (Protection/Maintenance)" means removing a threat to, or preventing the decline of, wetland conditions by an action in or near a wetland. This includes the purchase of land or easements, repairing water control structures or fences, or structural protection such as repairing a barrier island. Preservation does not result in a gain of wetland acres, may result in a gain in functions, and will be used only in exceptional circumstances.
Protection	"Protection" means action to avoid or mitigate impacts to in order to preserve the structure, values, and functions of the natural environment.
Qualified professional	"Qualified professional" means a person with a minimum of two-years of work experience and professional degrees and/or training pertaining to the critical area in question, with experience in performing delineations, analyzing critical area functions and values, analyzing critical area impacts, and recommending critical area mitigation and restoration. The administrator may require professionals to demonstrate the basis for qualifications and shall make final determination as to qualifications. 1. Aquifer recharge. A qualified professional for critical aquifer recharge areas means a Washington State licensed hydrogeologist, geologist, or a professional engineer, with specific education and demonstrated professional competence related to groundwater hazards. 2. Habitat conservation. A qualified professional for habitat conservation areas must have a degree in wildlife biology, ecology, fisheries, or closely related field and demonstrated professional experience related to the subject species/habitat type. 3. Geologic hazards. A qualified professional for geologically hazardous areas must be a professional geologist, a professional engineering geologist or a professional engineer, with specific education and demonstrated professional competence related to geologic hazards. 4. Wetlands. A qualified professional generally means a person with at least two years of full-time professional experience and comprehensive training in wetlands issues, including experience performing wetland delineations using state and federal manuals, assessing wetland functions and values, analyzing wetland impacts, preparing wetland reports, developing and implementing mitigation plans, and recommending and designing wetland mitigation projects.
Rainy season	The rainy season extends from November 1st through April 30th of the following year.

Recreational vehicle	"Recreational vehicle" means a vehicle that is: 1. Built on a separate chassis; 2. Four hundred square feet or less when measured at the largest horizontal projection; 3. Is designed to be self-propelled or permanently towable by a light duty truck; and 4. Is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
Regulated activities	"Regulated activities" include land clearing, grading, placement of fill or waste material, removal of protected native vegetation, construction and other habitat-altering activities.
Slopes - unstable	Unstable slopes are those sloping areas of land which have in the-past exhibited, are currently exhibiting, or will likely in the future exhibit, movement of earth.
SEPA	SEPA means "State Environmental Policy Act, RCW 42.21C and WAC 197-11.
Soil Removal	Removal of any kind of soil or earth matter, including top soil, sand, gravel, clay, rock or similar materials or combination thereof, except common household gardening
Solar access	"Solar access" shall mean the availability of direct sunlight to solar energy systems.
Species - listed	"Listed Species" are State listed species including native fish and wildlife species legally designated as Endangered (WAC 232-12-014), Threatened (WAC 232-12-011) or Sensitive (WAC 232-12-011); and includes threatened and endangered species under the Federal Endangered Species Act, 50 C.F.R.17.11 and 50 C.F.R. 17.12.
Species - priority	"Priority species" means animal species listed by the Washington State Department of Fish and Wildlife, Priority Habitat and Species Program, that are of concern due to their low population and/or their sensitivity to habitat manipulation.
Species - threatened	"Threatened" species are native to the state of Washington and likely to become endangered in the foreseeable future throughout a significant portion of its range within the state without cooperative management or the removal of threats. Threatened species are legally designated in WAC 232-12-011.
Species - sensitive	"Sensitive species" are fish and wildlife species native to Washington that are vulnerable or declining, and are likely to become endangered or threatened in a significant portion of their ranges within the state, without cooperative management or the removal of the threats.
Stormwater	Stormwater means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, channels or pipes into a defined surface water channel, or a constructed infiltration facility

Storm water management facilities	"Storm water management facilities" include biofiltration swales, filter strips, bubbler diffusers, detention ponds, retention ponds, wet ponds, and similar facilities designed and intended to control and treat storm waters, but not including ditches designed and intended primarily for conveyance.
Streams	"Streams" means those areas where surface waters produce a defined channel or bed excluding streams and lakes regulated under the State Shorelines Management Act.
Substantial damage	"Substantial damage" means damage of any origin sustained by a structure whereby the costs of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred".
Substantial improvement	"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 purpose 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.
Surface Water	Waters that flow over the land surface and frequently interact with groundwater
Swale	A shallow drainage conveyance with relatively gentle side slopes, generally with flow depths less than one foot
System functions and values	"System function and values" is a technical term used to identify the role of a critical area in a given area as opposed to its mere physical presence and size; used most often when comparing alternatives for mitigation purposes.
Toe of slope	A point or line on the upper surface of a slope where it changes to horizontal or meets the original surface. The outermost inclined surface at the base of a hill; part of a foot slope
Topography	The drawing accurately on a map lines that represent particular and consistent elevation levels on the land area depicted on said drawing; also, the actual physical surface's relief characteristics
Triggering application	"Triggering application" means an application for one of the permits or approvals listed in this chapter.
Use	"Use" means the purpose for which a property is occupied, and utilized, that may include a variety of activities related to the use. Uses may be categorized according to a variety of systems; in a number of manners that emphasize shared characteristics: land use is typically classified in terms of agricultural, residential, commercial, industrial, and open space. Uses may be characterized in terms of high, moderate and low intensity based on characteristics that impact other uses or activities.

Use(s) – high intensity	"High intensity use(s)" are generally urban uses which, by their nature, have the potential for substantial effect on critical areas. High intensity uses, where applicable, are defined separately in regulations for individual critical areas
Use(s) – low intensity	"Low intensity uses" means uses, which by their nature generally have a low level of adverse effect on critical areas. Low intensity uses, where applicable, are defined separately in regulations for individual critical areas.
Use(s) – moderate intensity	"Moderate intensity uses" means uses, which by their nature generally have a moderate level of adverse effect on critical areas. Moderate intensity uses, where applicable, are defined separately in regulations for individual critical areas.
Use – water dependent	"Water-dependent" means a use or a portion of a use that requires direct contact with the water and cannot exist at a non-water location due to the intrinsic nature of its operations.
Watershed	A geographic region within which water drains into a particular river, stream, or body of water as identified and numbered by the State of Washington Water Resource Inventory Areas (WRIAs) as defined in Chapter 173-500 WAC
Well head protection area	Well head protection area" means the area (surface and subsurface) managed to protect ground water based public water supplies.
Wetland(s)	"Wetland(s)" means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created 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.
Wetland classes and subclasses	"Wetland classes and subclasses" means descriptive classes of the wetlands taxonomic classification system of the United States Fish and Wildlife Service (Cowardin, et al. 1978).
Wetland delineation manual	"Wetlands delineation manual" means the Washington State Wetland Identification and Delineation Manual (Publication #96-94) dated March 1997, and as subsequently amended."
Wetland - emergent	"Emergent wetland" means a wetland with at least 30 percent of the surface area covered by erect, rooted, herbaceous vegetation as the uppermost vegetative strata.
Wetland - forested	"Forested wetland" means a wetland with at least 30 percent of the surface area covered by a canopy of woody obligate, facultative wet, or facultative plants greater than 20 feet in height.

Wetland functions and values	"Functions" refer to the physical, biological, chemical, and geologic interactions among different components of the environment that occur within a wetland. Wetlands perform many valuable functions and these can be grouped into three categories: functions that improve water quality, functions that change the water regime in a watershed such as flood storage, and functions that provide habitat for plants and animals. "Values" refer to wetland processes, characteristics, or attributes that are considered to benefit society.
Wetland(s) – scrub-shrub	"Scrub-shrub wetland" means a wetland with at least 30 percent of its surface area covered by woody vegetation less than 20 feet in height as the uppermost strata.

4.010.040 Applicability and critical areas map

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

1. Properties containing critical areas are subject to this title.
2. Buffers are protected and impacts to buffers are regulated to help improve the functional values of critical areas.
3. When the requirements of this chapter are more stringent than those of other Winlock codes and regulations, the requirements of this chapter shall apply.
4. Where a site contains two or more critical areas, the site shall meet the minimum standards and requirements for each identified critical area as set forth in this title.

B. Development permit required. The City of Winlock shall not grant any permit, license, or other development approval to alter the condition of any land, water, or vegetation, or to construct or to alter any structure or improvement, nor shall any person alter the condition of any land, water, or vegetation, or construct or alter any structure or improvement, for any development proposal within a critical area or its buffer regulated by this chapter, except in compliance with the provisions of this chapter. Failure to comply with the provisions of this chapter shall be considered a violation and subject to enforcement procedures.

C. Critical Areas. Critical areas include:

1. Wetlands;
2. Category I and II aquifer recharge areas;
3. Wellhead protection areas;
4. Fish and wildlife habitat conservation areas;
5. Frequently flooded areas;
6. Geologically hazardous areas; and
7. Slopes with a gradient of 25 percent or greater.

D. Buffers. Critical areas include the attendant buffer areas to lands identified in this Chapter.

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

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

1. Winlock Development Code (WDC). Development activity regulated under this title that will occur within a protected critical area or critical area buffer shall comply with the provisions of this chapter.

2. The State Environmental Policy Act (SEPA), Chapter 43.21C RCW. Development activity that is likely to have a significant adverse impact upon identified critical areas regulated by this chapter shall not be categorically exempt from SEPA review and shall demonstrate compliance with this chapter. (See WDC 4.020.)

3. The Shorelines Management Act (SMA), Chapter 90.58 RCW.

G. State and Federal Agency Review. Regulated activities subject to this chapter shall be routed to appropriate state and federal agencies for review and comment as required through the SEPA and/or JARPA review process.

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

1. Determine the likely presence of a Critical Area;

2. Determine the appropriate use as provided in this chapter and require project plans to incorporate appropriate setbacks or buffers to avoid critical areas, and meet specific performance standards;

3. Determine appropriate development or mitigation measures or require the applicant to prepare a critical area assessment report;

4. Review and evaluate the proposal, the critical area report, and relevant information and:

a. Determine whether the development proposal conforms to the purposes and performance standards of the WDC,

b. Assess the potential impacts to the critical area and determine if they can be avoided or minimized,

c. Determine whether mitigation proposed by the applicant is sufficient to protect the functions and values of the critical area and public health, safety, and welfare concerns consistent with the goals, purposes, objectives, and requirements of the WDC; and

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

I. Critical Area Assessment (CAR) - Authority and Use.

1. When the Administrator determines a proposed development is within, abutting, or is likely to adversely affect a critical area or buffer pursuant to the provisions of this chapter, the Administrator shall have the authority to require a Critical Area Report (CAR). A qualified professional shall prepare the report that includes a reasonable level of technical study and analysis to protect the public health, safety and welfare as well as Critical Area protection. The intent of these provisions is to require a reasonable level of technical study and analysis sufficient to protect critical areas. The analysis shall be commensurate with the value or sensitivity of a particular critical area and relative to the scale and potential impacts of the proposed activity.
2. The assessment report shall:
   a. Demonstrate that the proposal is consistent with the purposes and specific standards of this chapter;
   b. Describe all relevant aspects of the development proposal and critical areas adversely affected by the proposal and assess impacts on the critical area from activities and uses proposed; and
   c. Identify proposed mitigation and protective measures as required by this chapter.
3. The Administrator shall review the critical areas assessment report for completeness and accuracy. The Administrator may retain, at applicant's expense, a qualified professional to perform peer review of the conclusions and may reject or request revision of the field and literature findings and conclusions reached in a critical areas assessment report when the assessment is inaccurate, incomplete, or does not fully address the critical areas impacts involved.
4. Critical areas assessment reports shall generally be valid for a period of five (5) years. Future land use applications may require preparation of new or supplemental critical area assessment reports unless it can be demonstrated to the satisfaction of the Administrator that the previously prepared report is adequate for current analysis. The Administrator may also require the preparation of a new critical area assessment report or a supplemental report when new information is found demonstrating that the initial assessment is in error. If the Administrator requires more information in the report, he/she shall make the request in writing to the applicant stating what additional information is needed and why.
5. Applicants shall provide reports and in an electronic format that allows site data to be incorporated into the County GIS database unless the Administrator waives this requirement, accepting paper documents in lieu of electronic documents. Applicants are encouraged to coordinate with the Administrator regarding electronic submittal guidelines. This requirement shall not be construed as a requirement to use specific computer software.

J. Critical Area Assessment Report - General Content. At a minimum, a critical areas assessment report shall include the following information, as well as any specific information required in provisions for the specific Critical Area.

1. A site plan showing the proposed development footprint and clearing limits, all relevant critical areas and buffers within and abutting the site, a written description of the project, an examination of project on-site design alternatives, and an explanation of why the proposed activity requires a location on, or access across, a critical area and why alternatives are not feasible;
2. A written description of the critical areas and buffers on or abutting the site, including their size, type, classification or rating, condition, disturbance history, and functions and values.
3. An analysis of potential adverse critical area impacts associated with the proposed activity including, but not limited to, effects related to clearing, grading, noise, light/glare, drilling, damming, draining, creating impervious surface, managing storm water, releasing hazardous materials, other alterations;
4. An analysis of how critical area impacts or risks will be avoided and/or minimized, and/or an analysis of the proposed measures to prevent or minimize hazards. When impacts cannot be avoided, the report shall include a plan describing mitigation that will be provided to replace critical area functions and values altered as a result of the proposal.
5. The dates, names, and qualifications of the persons preparing the report and documentation of analysis methods including any fieldwork performed on the site; and
6. Additional information requested by the Administrator for the assessment of critical areas impacts or otherwise required by the subsequent articles of this chapter.

K. Applicability by Activity. Table 4.010.040 establishes the level of review required for uses or activities under this chapter.
1. Exempt (E). Activities or uses that are exempt require no review and do not need to meet the standards of the ordinance.
2. Review Required (RR). Activities and uses that are categorized as 'Review Required' must comply with the standards of the Chapter but no special report is needed. Determination of compliance with the Chapter shall be determined through the review process required for the underlying development permit application.
3. Critical Area Report (CAR). When a Critical Area Report is required, the applicant must submit a report consistent with this chapter and with the underlying development application and will submit additional application fees consistent with the adopted fee schedule.
4. The Administrator shall have the discretion to determine whether the proposed activity may adversely impact protected critical areas and or their buffers and shall assign the appropriate level of review, Exempt, Review Required, or Critical Areas Report. The decision of the Administrator may be appealed to the Hearing Examiner.
5. Critical Aquifer Recharge Area (CARA). See section WDC 4.010.090.A.1.e for a list of uses prohibited in a CARA I area. The Administrator shall exercise discretion to determine whether similar uses not listed therein require additional review and oversight.

Table 4.010.040				
USE / ACTIVITY	Development located in any of the following critical areas may be **Exempt (E), Require Review (RR),** or are subject to a **Critical Area Report (CAR):**			
	WETLAND	FISH AND WILDLIFE HABITAT	GEOLOGIC HAZARDOUS AREA	FREQUENTLY FLOODED AREA
RESIDENTIAL ACTIVITIES				
Construction or alteration of one Single Family Dwelling on a legal lot created prior to 2005 and located in a Critical Area or buffer.[5]	RR	RR	RR	RR
Short plat subdivision that impact Critical Areas and buffers	RR	RR	RR	RR
Subdivisions that impact Critical Areas or buffers	CAR	CAR	CAR	CAR
Approved Multi-Family Site Plan Prior to 2004	RR	RR	RR	RR
Multi-Family site plan within critical area or buffer	CAR	CAR	CAR	CAR
Interior or exterior alteration or repair that does not change the footprint of the building or does not increase impervious surface area within a critical area or buffer	E	E	E	E
COMMERCIAL & INDUSTRIAL ACTIVITIES				
New construction within Critical Area or buffer	CAR	CAR	CAR	CAR
New construction approved prior to adoption of this ordinance.	E	E	E	E
Expansion, alteration or addition to existing construction within a critical area or buffer	RR	RR	RR	RR
Public facilities and services identified on the CFP including but not limited to roads, sewer and water infrastructures, power lines, and gas lines, unless exempted in this chapter.	RR	RR	RR	RR
Public facilities on a site already developed where there is no proposed impact to a resource or buffer	E	E	E	E
OTHER ACTIVITIES				
Clearing, filling, grading, and native vegetation removal activities within a Critical Area or buffer	CAR	CAR	CAR	CAR
Forest Practices except Conversions	RR	RR	RR	RR
Emergencies[6]	RR	RR	RR	RR
Repair of existing: structures, infrastructure improvements, utilities, public or private roads or drainage systems in critical areas or buffers.	RR	RR	RR	RR
Public facilities on a site already developed where there is no proposed impact to a resource or buffer	E	E	E	E
Activities within an existing improved right-of-way or roadway easement.	E	E	E	E
Chemical applications subject to applicable local, state or federal handling and application requirements.	E	E	E	E
Minor site investigative work, up to 10 cubic yards of fill or removal or removal of trees of 6" dbh or less.	E	E	E	E
Hand removal of invasive weeds and black berries.	E	E	E	E
Public and Private pedestrian trails	RR	RR	RR	RR
Select removal of hazard trees and vegetation when necessary to comply with fire codes	RR	RR	RR	RR
Construction of fences in a Critical Area or Buffer	RR	RR	RR	RR
Vegetation removal and maintenance activities inside existing landscaped areas on lots that predate adoption of this chapter (other than removal of trees greater than 6" dbh).	E	E	E	E

[5] See Allowed Uses, section 4.010.050.D.4.

[6] *Emergencies: See Section* 4.010.070.2. *Within one week of substantially completing the emergency work, the party responsible for the emergency activity shall file a report with the Administrator demonstrating compliance with this Chapter.*

4.010.050 Uses

A. Approval required. Unless the requirements of this chapter are met, Winlock shall not grant any approval or permission to alter the condition of any land, water, or vegetation, or to construct or alter any structure or improvement regulated through the following: building permit, commercial or residential; binding site plan; franchise right-of-way construction permit; site development permit; right-of-way permit; shoreline permits; short subdivision; use permits; subdivision; utility permits; or any subsequently adopted permit or required approval not expressly exempted by this chapter.

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

C. Review. The city may approve uses listed in section WDC 4.010.050.D, Allowed Uses, subject to a Type II process, if the proposed development activity meets the standards in WDC 4.010.100, Development standards, and WDC 4.010.110, Mitigation.

D. Allowed Uses. The city may allow the following uses on critical areas and within buffer areas subject to the development standards of WDC 4.010.100 and appropriate mitigation standards as described in WDC 4.010.110:

1. Low Impact recreational uses. The following uses are necessary for the understanding and enjoyment of critical areas.
   a. Outdoor recreational or educational activities which do not significantly affect the functions and values of the critical area and buffers (including wildlife management or viewing structures, outdoor scientific or interpretive facilities, and pervious trails for non-motorized use, and other similar uses) and meet the following criteria:
      i. Trails shall not exceed 4 feet in width and shall be made of gravel or pervious material.
      ii. The trail or facility is located in the outer fifty percent (25%) of a wetland or riparian buffer unless a location closer to the critical area is required for interpretive purposes. Trails will be designed to avoid the removal of significant trees (>20" dbh) as defined by WDF&W.
      iii. The trail or facility is constructed and maintained in manner that minimizes disturbance of the wetland or buffer. Trails or facilities within wetlands shall be placed on an elevated structure as an alternative to fill.
   b. Harvesting wild crops which do not significantly affect the function of the wetland or regulated buffer (does not include tilling of soil or alteration of wetland area).
2. Utilities. Below or above ground utilities, facilities and improvements, where necessary to serve development consistent with the Winlock comprehensive plan and development code, including: streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, open space, and parks and recreational facilities, where there is no other reasonable alternative, based on topographic and environmental conditions, as determined by the Administrator.
3. Removal of diseased or dangerous trees, as determined by the Administrator, or the removal of invasive or nuisance plants.
4. Construction, replacement, or alteration of a single-family dwelling unit in a residential zoning district on a legal lot of record created and prior to December 31, 2005, so long as the replacement or expansion conforms with the height regulations, lot coverage and

dimension standards and other design provisions for the zone in which the residence is located. The dwelling unit shall be used solely for single-family purposes. Approval is subject to Type II review. The city may modify underlying zoning district dimensional standards applicable by up to a 50 percent adjustment, if necessary to protect critical areas.

5. Consistent with Washington Senate Bill 5248, the City shall not change its regulations affecting existing or new agricultural use.

6. Specific Uses Allowed in Wetlands.

   a. Enhanced Replacement. Replacing or enhancing a wetland such that the enhanced wetland is of higher quality and meets the criteria for a higher category.

   b. Wetland Banking. Construction, enhancement or restoration of wetlands to use as mitigation for future wetland development impacts in the same watershed is permitted if:

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

      ii. All impacts to wetlands and wetland buffers shall be mitigated and monitored consistent with WDC 4.010.090(F) (12).

E. Limited uses. Limited uses, as described in this section, shall avoid critical areas, to the greatest extent reasonable and practicable. Limited uses may be allowed within critical area buffers subject to the mitigation measures and implementation of a monitoring plan as described in WDC 4.010.110.C. Applications for development within critical areas or buffers shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas and buffers. All limited uses shall be consistent with the provisions of this chapter and shall be subject to SEPA review.

1. Subdivision or Short Plat. The subdivision or short plat process may be used when provisions are made (e.g., avoidance, mitigation, dedication of land or conservation easements) that substantially minimizes adverse effects upon critical areas. New lots shall not be platted within a wetland or wetland buffer.

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

3. Stormwater Facilities. Stormwater facilities may be allowed in buffers of Class III and IV wetlands with low habitat function (less than twenty (20) points on the habitat section of the rating system form); provided, the facilities shall be built on the outer 25% of the buffer and not degrade the existing buffer function and are designed to blend with the natural landscape. Unless determined otherwise by the Administrator, the following activities shall be considered to degrade a wetland buffer when they are associated with the construction of a stormwater facility:

   a. Removal of trees greater than four (4) inches diameter at four and one-half (4-1/2) feet above the ground or greater than twenty (20) feet in height;
   b. Disturbance of plant species that are listed as rare, threatened or endangered by the county or any state or federal management agency;
   c. The construction of concrete structures other than manholes, inlets, and outlets that are exposed above the normal water surface elevation of the facility;
   d. The construction of maintenance and access roads;

e. Slope grading steeper than four to one (4:1) horizontal to vertical above the normal water surface elevation of the stormwater facility;
f. The construction of pre-treatment facilities such as fore bays, sediment traps, and pollution control manholes;
g. The construction of trench drain collection and conveyance facilities;
h. The placement of fencing; and
i. The placement of rock and/or riprap, except for the construction of flow spreaders, or the protection of pipe outfalls and overflow spillways; provided, that buffer functions for areas covered in rock and/or riprap are replaced.
j. Stormwater facilities may not be placed in a buffer area that has been reduced through approved buffer averaging or buffer reduction measures.

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

1. Low intensity uses. Land alteration associated with low intensity uses is slight and human activities are infrequent or at a low level of intensity. Wildlife habitat functions in particular are accommodated to a large extent on land subject to low intensity use. Low intensity uses, facilities, and activities include, but are not limited to:
   a. Low-intensity open space uses and activities, including but not limited to hiking, bird-watching, hunting, and similar activities;
   b. Unpaved trails, provided that the width does not exceed four (4) feet and is on slopes no greater than 35 percent;
   c. Utility corridors without maintenance roads and with little to no periodic vegetation management; and
   d. Harvesting wild products but not including tilling of soil.
2. Moderate intensity uses. The proximity impacts of moderate intensity uses are either of moderate frequency or of a moderate level. Wildlife habitat uses in particular are accommodated to a limited extent on land subject to moderate intensity use and activities. Uses, facilities, and activities include, but are not limited to:
   a. Residential use at 1 unit/acre or less;
   b. Parks characterized by open space without extensive areas of turf and largely limited to interpretive facilities and trails;
   c. Paved trails, provided that the width does not exceed ten (10) feet and on side slopes no greater than 35 percent; Rural roads that are unpaved and used primarily for access to forests or farmland on less than a daily basis, except during harvest periods; and
   d. Utility corridors or right-of-way shared by several utilities and including access/maintenance road.
3. High intensity uses. The proximity impacts of such uses are great and require buffering for attenuation. Few habitat functions are provided on lands devoted to high intensity uses. Uses, facilities, and activities include, but are not limited to:
   a. Residential use at greater than 1 unit/acre;
   b. Commercial, office and retail use;
   c. Industrial use;
   d. Institutional use; and
   e. Park and recreation uses and facilities involving a high level of alteration of the natural environment, parking and recreation areas, and areas often associated with use of fertilizers, pesticides, and herbicides and include, but are not limited to, golf courses, ball fields, recreation centers, and similar uses.

4.010.060 Variances

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

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

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

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

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

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

5. In addition to the approval criteria above, an application to vary from the buffer requirements of a fish habitat conservation area or riparian area shall demonstrate that the requested buffer width modification preserves adequate vegetation to:

   a. Maintain proper water temperature;

   b. Minimize sedimentation; and

   c. Provide food and cover for critical fish and wildlife species;

6. When granting a variance, the city may attach specific conditions to the variance that will serve to meet the goals, objectives, and policies of this chapter, including the preparation and implementation of a mitigation and monitoring plan consistent with WDC 4.010.110.C.

4.010.070 Exemptions

A. Exempt activities in Critical Areas. The following developments, activities, and associated uses shall be exempt from the provisions of this Chapter, provided that they are otherwise consistent with the provisions of other local, state, and federal laws and requirements, and a written request for exemption has been filed with and approved by the Administrator.

1. The Administrator shall have the authority to negotiate memoranda of agreements with utility service providers or public agencies, and said agreements shall specify best management practices to be used in situations of emergency and usual and customary repair, which if rigorously adhered to, may exempt said emergency or repair activity, including routine operation and maintenance from further review under this chapter. Memorandum of agreements shall be authorized by the Winlock City Council only after notice and completion of a public hearing on the full terms and merits of the agreement.

2. Emergencies. Emergency activities are those activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of damage to private property and that require remedial or preventative action in a timeframe too short to allow for compliance with the requirements of this Chapter. 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 adverse impact to the critical area or its buffer. The person or agency undertaking such action shall notify the City within one (1) working day following commencement of the emergency activity. Following the emergency appropriate mitigation shall be implemented and permanent activities, installations or impacts are subject to review and compliance with the applicable standards.

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

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

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

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

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

      iii. The person or agency undertaking emergency actions consult with the City Administrator and applicable state or federal agencies within 30 days after the notice of emergency to identify and thereafter implement suitable mitigation requirements.

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

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

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

4. Forest practices. Forest practices regulated and conducted in accordance with the provisions of Chapter 76.09 RCW and forest practices regulations, Chapter 222 WAC, and those that are exempt from Winlock's jurisdiction, provided that forest practice conversions are not exempt.

5. Right-of-way. Activities within the improved public right-of-way or recorded easement. Replacement, modification, installation, or construction of utility facilities, lines, pipes, mains, equipment, or appurtenances, not including substations, when such facilities are located within the improved portion of the public right-of-way or recorded easement, or, a City authorized private roadway except those private activities that alter a wetland or watercourse, such as culverts or bridges, or results in the transport of sediment or increased stormwater.

6. Chemical applications. The application of herbicides, pesticides, organic or mineral-derived fertilizers, or other hazardous substances, if necessary, provided that their use shall be restricted in accordance with Department of Fish and Wildlife Management Recommendations and the regulations of the Department of Agriculture and the U.S. Environmental Protection Agency.[7]

7. 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.

8. Boundary markers. Construction or modification of boundary markers or fences.

9. Modifications. Construction and modifications to existing structures that does not increase the footprint of the structure.

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

    a. Invasive non-native weeds;

    b. English Ivy (*Hedera helix*),

    c. Himalayan blackberry (*Rubus discolor, R. procerus*); and

    d. Evergreen blackberry (*Rubus laciniatus*).

11. Emergency or hazard tree removal conducted so that habitat impacts are minimized.

12. Public improvement projects located within existing impervious surface areas.

13. Public Agency and Utility Exemption.

B. Exemption request and review process. The proponent of the activity shall submit a completed exemption request form to the Building Official that describes the activity and states the exemption listed in this Section that applies. The Administrator shall review the exemption request to verify that it complies with this Chapter and approve or deny the exemption. If the

[7] More information on commercial and residential use of chemicals can be found in Department of Ecology "Guidance Document for Establishment of Critical Aquifer Recharge Areas Ordinances" Version 3.0, Publication #97-30; and from the state Department of Agriculture, http://www.wa.gov/agr/.

exemption is approved, it shall be placed on file with the department and the requesting party notified. If the exemption is denied, the proponent may continue in the review process and shall be subject to the requirements of this Chapter. Determinations shall be considered a Type I process pursuant to WDC 1.030.080 and subject to appeal pursuant to WDC 1.030.130.

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

4.010.080 Reasonable use exception

A. Reasonable Use Exceptions. The following exceptions shall apply. The city shall apply the standards of this chapter to the maximum extent practicable to avoid and minimize adverse impacts on the functions and values of critical areas and buffers. Mitigation of impacts, consistent with this chapter, is required. Reasonable use exemptions include:
   1. The placement or modification of one single-family residence and normal accessory structures on a buildable legal lot of record created prior to December 31, 2005. The city shall employ reasonable discretion in applying the standards of this chapter to limit the proposed location and size of structures and removal of native vegetation.
   2. The expansion of a home or accessory structure on a lot that does not show building or development envelopes, wetlands or wetland buffers on the recorded plat, not to exceed twenty-five percent (25%) of the existing building footprint.
   3. The replacement of single-wide mobile home with another dwelling and normal accessory structures.
   4. Fire hazard clearing recommended by the fire marshal, or consistent with written fire marshal or fire chief guidelines.

B. General Requirements.
   1. Except when application of this chapter would deny all reasonable use of a lot, an applicant who seeks a modification from the regulations of this chapter may pursue a variance as provided in WDC 4.010.060, Variances, and consistent with the requirements of this subsection.
   2. The Administrator shall prepare and maintain application forms necessary to implement this subsection.

C. Application Requirements.
   1. Preliminary Review. The provisions for conducting a preliminary review of a proposed reasonable use exception are set forth in WDC 4.010.080.A.
   2. Regulations – General Provisions – Application Filing.
      a. Reasonable use exception applications shall be reviewed for completeness in accordance with city submittal standards checklists and pursuant to WDC 1.030.050.
      b. An applicant for a development proposal may file a request for a reasonable use exception which shall include the following information:
         i. A description of the areas of the site which are critical areas or within setbacks required under this title;

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

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

iv. An analysis of the impact that the amount of development described in subsection 4.010.080.E would have on the critical area(s);

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

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

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

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

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

D. Public Review.

1. The city shall process a request for a reasonable use exception as a Type III procedure pursuant to WDC 1.030.100.

2. The city shall forward a copy of a request for reasonable use exception to the state and federal agencies with jurisdiction over the resource at issue and to all property owners within 300 feet of the subject property.

3. The city shall provide public notice of the request for reasonable use exception pursuant to WDC 1.030.120.

4. A party shall appeal a final decision of a request for reasonable use exception pursuant to WDC 1.030.130.

E. Reasonable Use Approval Criteria. The hearing examiner shall approve a reasonable use exception if the examiner determines the following criteria are met:

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

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

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

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

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

6. The proposal mitigates the impacts on the critical area(s) to the maximum extent possible, while still allowing reasonable use of the site. The applicant shall prepare and implement a mitigation and monitoring plan consistent with WDC 4.010.110.C.

4.010.090 Best Available Science

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

4.010.100 Development standards

A. Authorization required. Within Critical Areas, the city shall prohibit soil excavation, grading, removal of native vegetation species, draining, intentional burning, planting of invasive or nuisance vegetation, placement of structures and new construction on critical areas unless otherwise authorized in this chapter.

1. These development standards apply to uses on critical areas and within buffers unless otherwise exempted in this title.

2. In order to approve application for development on lands subject to this chapter, the Administrator shall find that the following standards have been met:

(i) All reasonable alternatives for locating the development activity in such a way so as to avoid critical areas have been considered and the development activity will be located in the least environmentally sensitive area as practicable and the purpose of this chapter, as described in WDC 4.010.010, is fulfilled. If avoidance is not practicable, as determined by the city, development shall minimize adverse impacts to critical areas and buffers consistent with the mitigation sequencing measures and mitigation and enhancement measures prescribed in the chapter.

(ii) The city has approved the vegetation removal methods and the removal of native plants has been avoided.

(iii) All adverse impacts to all affected critical areas and buffers are either avoided or fully mitigated.

(iv) The plan minimizes cuts and fills.

(v) Soils are not exposed during the rainy season (November 1st through April 30th) and construction activity is limited to the dry season (May 1st through October 31st).

(vi) The Administrator has reviewed and approved an erosion control plan, grading plan, and vegetation removal and replanting plan prior to construction activity.

(vii) All activities have received applicable state and federal permits, and comply with SEPA requirements if the lead agency makes a threshold determination of significance (DS), or a mitigated determination of non-significance (MDNS).

(viii) Hydraulic permits are required for any activity occurring within the ordinary high water mark of any state regulated Class I or Class II stream.

(ix) Compliance with this chapter does not constitute compliance with state and federal environmental standards. The applicant shall be responsible for demonstrating such compliance.

B. Review Process.

1. The review process shall be the type specified in the WDC for each particular land use action unless otherwise specified in this chapter.

2. Applications to develop on critical areas or their buffers shall be subject to Type I review if, within a one-year period, the cumulative impact on critical areas is:

   a. Disturbance of less than 10 cubic feet of soil;

   b. An activity, the fair market cost of which is less than $500.00; or

   c. The activity involves less than 1,000 square feet of critical areas.

3. Standard Requirements. All applications requiring review under this section shall have the following minimum conditions applied:

   a. Critical Area and Buffer Marking During Construction. The location of the outer extent of the critical area and its buffer, if any, shall be marked in the field and such markings shall be maintained throughout the duration of the permit.

   b. Permanent Marking of Critical Area and Buffer. A permanent and perpetual physical demarcation along the upland boundary of the Critical area and buffer shall be installed and thereafter maintained. Such demarcation may consist of logs, a tree or hedgerow, wood or wood like fencing, or other prominent physical marking approved by the Administrator. In addition, signs measuring (minimum size 1 foot x 1 foot and posted 3.5 feet above grade) shall be posted at an interval of one (1) per lot or every one hundred (100) feet, whichever is less, and perpetually maintained at locations along the outer perimeter of the critical area and buffer approved by the Administrator worded substantially as follows: "CRITICAL AREA AND *BUFFER – PLEASE RETAIN IN A NATURAL STATE.*"

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

C. Record of Notice. Prior to issuance of any development or building permit on lands subject to this chapter, the property owner shall record a Record of Notice of Critical Areas, on a form provided by the City, on all properties affected by critical areas and buffers and shall provide the City Clerk with a copy of the recorded notice.

D. SEPA Review. On a case-by-case basis, the Responsible Official may issue a Determination of Nonsignificance (DNS) if:

1. The application for development review contains all requested information, including reports, maps and other documents relevant to the proposed activity; and

2. The proposed activity complies with all applicable development review and performance standards; and

3. Compliance with all applicable development standards and performance standards is made a binding condition of land use approval.

4.010.110 Mitigation

A. Approval. City approval of a mitigation plan is a prerequisite for approval of any development activities on critical areas.

(a) The applicant shall submit a written request describing the extent and nature of the proposed development activity on critical areas and buffers. The request shall include boundary locations and identification of all designated critical areas and buffers.

(b) The application for development shall include a mitigation plan prepared in compliance with this section. (See Appendix C, "Monitoring and Maintenance Plan" as an illustration of recommended plan.)

(c) The city may require the applicant to prepare special reports evaluating potential adverse impacts upon critical areas and potential mitigation measures as part of the land use application process. These reports may include, but are not limited to, the following: storm water management plan; hydrology, geotechnical or geological engineering and soils reports; grading and erosion control plan; native vegetation report; fish and wildlife assessment and impact report; water quality report; wetlands delineation; and other reports determined necessary by the city.

(d) The city shall consult with state and federal resource management agencies and, in order to protect wildlife habitat or natural resource values, shall attach such conditions as may be necessary to effectively mitigate identified adverse impacts of the proposed development activity.

(e) The city may request third party "peer review" of an application by qualified professionals and may incorporate recommendations from such third party reports in findings approving or denying the application.

(f) All reports recommending mitigation shall include provisions for monitoring of programs and replacement of improvements, on an annual basis, consistent with report recommendations and at years one, three, five, seven. The city reserves the right to requiring reporting at year ten (10).

(g) The city may require replacement mitigation to be established and functional prior to project construction.

B. No Net Loss.

1. Mitigation efforts, when allowed, shall ensure that development activity does not yield a net loss of the area or function of the critical areas. No net loss shall be measured by:

   a. Avoidance or mitigation of adverse impacts to fish life; or

   b. Avoidance or mitigation of net loss of habitat functions necessary to sustain fish life; or

   c. Avoidance or mitigation of loss of area by habitat type.

2. Mitigation to achieve no net loss should benefit those organisms being impacted.

3. Where development results in a loss of wetland area, the mitigation plan shall demonstrate that wetland area is replaced consistent with the ratios described in the tables in WDC

4.010.035. The created or enhanced wetland shall be, acre for acre, of equal or greater biological values, including habitat value, and with equivalent hydrological values including storage capacity.

a. Wherever possible, replacement or enhancement shall occur on-site.

b. However, where the applicant can demonstrate that an off-site location is in the same drainage basin, and that greater biological and hydrological values will be achieved, the city may approve such off-site mitigation.

c. Wetponds established and maintained for control of surface water shall not constitute mitigation for wetland alterations.

d. Where there is a wetland within 25 feet of the toe of a slope equal to or greater than 25 percent, the buffer shall be a minimum of 25 feet beyond the toe of the slopes.

C. Mitigation Plan. A mitigation plan shall provide for the design, implementation, maintenance, and monitoring of mitigation measures. A mitigation plan shall include but is not limited to the following:

1. Methods and techniques to be used to mitigate impacts to critical areas;

2. Explanation of methods and techniques, such as construction practices to be used to implement the identified mitigation methods;

3. Methods and techniques for monitoring said mitigation and a proposed time-frame for such monitoring.

D. Storm Water Management. Any development on critical areas shall be consistent with the most recent version of the "Stormwater Management Manual for Western Washington," Washington State Department of Ecology, whichever is more restrictive.

E. Buffer Enhancement. Where a development avails itself of the buffer reduction opportunity described in this chapter, the following enhancement standards shall apply:

1. The applicant shall submit to the city a written request describing the extent and nature of the proposed development activity and shall submit a written enhancement plan.

2. The enhancement plan shall include calculations and maps that illustrate:

a. Required boundary locations of all critical areas and attendant buffers;

b. Proposed buffer areas after reduction;

c. Proposed areas to receive enhancement measures;

d. A timeline for completion of the enhancement plan;

e. Methods and techniques to be used to mitigate impacts to critical areas;

f. An explanation of methods and techniques, such as construction practices to be used to implement the identified mitigation methods; and

g. Methods and techniques for monitoring said mitigation and a proposed time-frame for monitoring.

3. The enhanced area shall functionally be of greater biological values, including habitat value, and with greater hydrological values including storage capacity.

4. Enhancement shall occur on-site.
5. Wetponds established and maintained for control of surface water shall not constitute mitigation for wetland alterations.
6. Surface water management or flood control shall not be considered enhancement.

4.010.120 Critical lands

A. **Critical Aquifer Recharge Areas.**

1. Applicability. Due to the exceptional susceptibility and/or vulnerability of ground waters underlying aquifer recharge areas to contamination and the importance of such ground waters as sources of public water supply, it is the intent of this chapter to safeguard ground water resources by mitigating or precluding future discharges of contaminants from new land use activities. The provisions of this chapter shall apply to regulated activities specified herein within those portions of the Winlock UGA classified as Category I Aquifer Recharge Areas.
2. Classification. Aquifer recharge areas are categorized according to the following standards and those contained in Table 4.010.090.A.1.
    a. Category I – Severe Aquifer Sensitivity. "Category I – Severe aquifer sensitivity" are those areas which provide rapid recharge with little protection, having highly permeable soils.
    b. Category II – Moderate Aquifer Sensitivity. "Category II – Moderate aquifer sensitivity" are those areas with aquifers present, but which have a surface soil material that encourages run-off and slows water entry into the ground.
    c. Category III – Slight Aquifer Sensitivity. "Category III – Slight aquifer sensitivity" are those areas of low ground water availability and whose soil series are derived from basaltic, andesitic, or sedimentary rock or ancient glacial till, which are parent material for soils with more clays at the surface. These geological formations do not provide abundant ground water.
    d. Soil classification is based upon the Aquifer Sensitivity Rating for Lewis County Soil Types in chapter 17.35A of the Lewis County Code.
3. Designation. Lands within the Winlock UGA meeting the classification criteria for aquifer recharge areas are hereby officially designated, pursuant to the mandate of RCW 36.70A.060 and 36.70A.170 as critical aquifer recharge areas.
4. Aquifer Recharge Areas – Rating System Determinations. In cases of disputed soil series, or series boundary, and resulting aquifer recharge category, the Administrator shall use all available information including reports by the United States Geological Survey, and technical assessments submitted in accordance with this chapter to make the final determination. This may include consultation with the USDA Natural Resource Conservation Service, the Washington Department of Natural Resources Division of Geology and Earth Resources, or a soil scientist certified by the American Registry of Certified Professionals in agronomy, crops, and soils. In areas that have been disturbed or the surface soil removed, as in gravel pits, the Administrator shall determine the most appropriate category with geological and hydrological information.
5. Category I Aquifer Recharge Areas (CARA I).

a. Areas with a critical recharging effect on aquifers used for potable water are areas where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water.

b. Winlock wellheads are owned and operated by the City of Winlock.

c. Development, other than the maintenance of vegetation, shall be prohibited within 50 feet of any public wellhead within the UGA.

d. For purposes of this chapter, critical aquifer recharge areas include lands within the 10-year zone of contribution, as shown on the Winlock critical areas map.

e. The following uses are prohibited in Category I aquifer recharge areas:

i. Chemical manufacturing mixing and remixing;

ii. Chemical waste reprocessing;

iii. Solid waste disposal facilities;

iv. Wood preservers;

v. Landfills;

vi. Class V injection wells: (I) agricultural drainage wells; (II) untreated sewage waste disposal wells; (III) cesspools; (IV) industrial process water and disposal wells; and (V) radioactive waste disposal;

vii. Radioactive disposal sites; and

viii. Surface mining operations.

6. Storage Tank Permits. The fire marshal regulates and authorizes permits for underground storage tanks, pursuant to the Uniform Fire Code (Article 79) and this chapter. The Washington Department of Ecology also regulates and authorizes permits for underground storage tanks (Chapter 173-360 WAC).

a. New Underground Tanks.

i. All new underground storage facilities used or to be used for the underground storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:

ii. Prevent releases due to corrosion or structural failure for the operational life of the tank;

iii. Be protected against corrosion, 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 substance; and

iv. Use material in the construction or lining of the tank that is compatible with the substance to be stored.

b. Aboveground Tanks.

i. No new aboveground storage facility or part thereof shall be fabricated, constructed, installed, used, or maintained in any manner which may allow the release of a hazardous substance to the ground, ground waters, or surface waters of Winlock within a CARA I.