16.12.180. - "E" definitions.

Ecosystem function or function means the products, physical and biological conditions, and environmental qualities of an ecosystem that result from interactions among ecosystem processes and ecosystem structures. Ecosystem functions include, but are not limited to, sequestered carbon, attenuated peak streamflows, aquifer water level, reduced pollutant concentrations in surface and ground waters, cool summer in-stream water temperatures, and fish and wildlife habitats.

Ecosystem values or value means the cultural, social, economic, and ecological benefits attributed to ecosystem functions.

16.12.180. - "F" definitions.

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

16.12.180. - "M" definitions.

Mitigation In-kind refers to replacing the same type of habitat or ecological function that was impacted (e.g., restoring riparian vegetation if riparian vegetation was removed).

Mitigation Out-of-kind refers to replacing a different type of habitat or function (e.g., creating off-channel habitat instead of restoring riparian vegetation).

16.12.180. - "N" definitions.

No net loss means the actions taken to achieve and ensure no overall reduction in existing ecosystem functions and values or the natural systems constituting the protected critical areas. This may involve fully offsetting any unavoidable impacts to critical area functions and values pursuant to the Growth Management Act, WAC 365-196-830 'Protection of critical areas,' or as amended.

Noxious weed means any plant species that has been designated as a noxious weed by the Washington State Noxious Weed Control Board under Chapter 17.10 RCW or the King County Noxious Weed Control Program. This definition includes Class A, B, and C noxious weeds as listed in the most current official state or county noxious weed lists, as amended.

16.12.180. - "P" definitions.

Priority habitats means 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, important fish and wildlife movement corridors, limited availability, high vulnerability to habitat alteration, and unique or dependent species.

Priority species means fish and wildlife species requiring protective measures and/or management actions to ensure their survival. A species identified and mapped as a priority species fit one or more of the following criteria: State-listed candidate species, vulnerable aggregations, and Species of recreational, commercial, and/or Tribal importance.

16.12.180. - "Q" definitions.

Qualified professional means a person with experience and training in the applicable critical area. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology, geology, or related field, and two years of related work experience.

~~1. A qualified professional for streams and fish and wildlife habitat conservation areas or wetlands must have a degree in biology or related field and relevant professional experience.~~

~~2. A qualified professional for a geologic hazard must be a professional engineer or geologist, licensed in the State of Washington.~~

1. Streams, wetlands, and fish and wildlife habitat conservation areas – For wetlands, a qualified wetland professional is a person with professional wetland experience who meets all of the following:

   a. A Bachelor of Science or Bachelor of Arts or equivalent degree in hydrology, soil science, botany, ecology, resource management, or related field; or four years of full-time work experience as a wetland professional may substitute for a degree; and

   b. At least two additional years of full-time work experience as a wetland professional, including delineating wetlands, preparing wetland reports, conducting functional assessments, and developing and implementing mitigation plans; and

   c. Completion of additional wetland-specific training programs. This may include a comprehensive program such as the University of Washington Wetland Science and Management Certificate Program, or individual workshops on topics such as wetland delineation, function assessment, mitigation design, hydrophytic plant identification, or hydric soil identification.

   A person certified as a Professional Wetland Scientist (PWS) through the Society of Wetland Scientists professional certification program meets the above criteria.

2. Geologically hazardous areas – A qualified professional for geotechnical reports and assessments must be licensed in the State of Washington as a professional engineer (PE) with geotechnical expertise, a licensed geologist (LG), a licensed engineering geologist (LEG), or a licensed hydrogeologist (LHG) as defined under RCW 18.220.010.

CHAPTER 16.72. - QUASI-JUDICIAL APPROVALS

16.72.060. Reasonable use exception.

A. *Purpose.* The purpose for a reasonable use exception is to permit development of a site only when application of Chapter 16.50 MMC (Critical Areas) would deny all reasonable uses of a site.

B. *Applicant.* Any owner may submit an application for a reasonable use exception.

C. *Procedures.* Reasonable use exceptions are processed as a Type 3 decision pursuant to the review procedures set forth in Chapter 16.80 MMC.

D. *Applicability.* This section shall apply where applying the critical areas regulations set forth in Chapter 16.50 MMC would deny all reasonable use of the subject property.

E. *Additional application submittal requirements.* In addition to the submittal requirements set forth in MMC 16.80.070, the applicant shall provide the following with a reasonable use exception application:

1. Critical area report consistent with the requirements of MMC 16.50.070;
2. Mitigation plan consistent with the requirements in Chapter 16.50 MMC, if necessary;
3. Applications/approvals from other agencies, as applicable;
4. Special studies prepared to support the reasonable use exception; and
5. SEPA documents.

F. *Criteria for approval.* The decision authority may approve a reasonable use exception only if the criteria set forth in MMC 16.50.050.A.1.a-e are satisfied.

G. *Conditions of approval.* The decision authority may attach reasonable conditions as necessary to safeguard the public health, general welfare and safety.

(Code 1988 § 20.72.060; Ord. No. 900 § 5 (Att. B), 2013)

SUBTITLE 16.5. ENVIRONMENT

CHAPTER 16.50. CRITICAL AREAS

16.50.010. Purpose.

A. The purpose of this chapter is to designate and classify ecologically critical areas, to protect these areas and their functions and values, and to supplement the development regulations contained in the Medina Municipal Code by providing for additional controls required by the Growth Management Act.

B. Within the city, known critical areas include wetlands, geologically hazardous areas, and fish and wildlife habitat conservation areas. The city recognizes that critical areas provide a variety of valuable and beneficial biological and physical functions that benefit the city and its residents, and/or may pose a threat to human safety or to public and private property. The standards and mechanisms established in this chapter are intended to protect critical areas while providing property owners with reasonable use of their property.

C. This chapter seeks to:

1. Protect the public health, safety and welfare by minimizing adverse impacts of development;
2. To protect property owners from injury, property damage or financial losses due to erosion, landslides, steep slope failures, seismic events, volcanic eruptions, or flooding;
3. Protect unique, fragile, and valuable elements of the environment, including ground and surface waters, wetlands, and fish and wildlife and their habitats through application of best available science, as determined according to WAC 365-195-900 through 365-195-925, and in consultation with state and federal agencies and other qualified professionals;
4. Prevent adverse cumulative impacts to water quality, wetlands, streams, fish and wildlife and their potential habitats;
5. Direct activities not dependent on critical area resources to less ecologically sensitive sites and mitigate unavoidable impacts to critical areas by regulating alterations in and adjacent to critical areas;
6. Alert appraisers, assessors, owners and potential buyers or lessees to the development limitations of environmentally sensitive areas; and
7. Implement the goals, policies, guidelines and requirements of the State Environmental Policy Act, the Growth Management Act, Chapter 43.21C RCW, the Medina comprehensive plan, and all city functional plans and policies.

(Code 1988 § 20.50.010; Ord. No. 924 § 3 (Att. B), 2015)

16.50.020. General provisions.

A. This chapter is not intended to repeal, abrogate or impair any existing regulations. Should a regulation in this chapter conflict with other regulations, the conflict shall be resolved consistent with MMC 16.10.030 and in favor of the provision which provides the most protection environmentally to the critical areas unless specifically provided otherwise in this chapter or such provision conflicts with federal or state laws or regulations.

B. This chapter shall apply as an overlay and in addition to zoning and other regulations adopted by the city, except within the shoreline jurisdiction. Where critical areas are located within the shoreline jurisdiction, Chapter 16.67 MMC shall apply in lieu of this chapter.

C. Compliance with the provisions of this chapter does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required.

D. Consistent with MMC 16.10.020, the provisions of this chapter set forth the minimum requirements in their interpretation and application and shall be liberally construed to serve the purposes set forth in MMC 16.50.010. If other chapters in this code conflict or are inconsistent with this chapter 16.50, then this chapter shall prevail.

E. These critical area regulations shall apply concurrently with review conducted under the State Environmental Policy Act (SEPA).

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F. Any individual critical area adjoined by another type of critical area shall have the buffer and the requirements applied that provide the most protection to the critical areas involved. Where any existing regulation, easement, covenant, or deed restriction conflicts with this chapter, the provisions of that which provides the most protection to the critical areas shall apply.

G. Interpretations of this chapter shall be done in accordance with MMC 16.10.050.

H. Approval of a permit or development proposal pursuant to the provisions of this title does not discharge the obligation of the applicant or property owner to comply with the provisions of this title.

(Code 1988 § 20.50.020; Ord. No. 924 § 3 (Att. B), 2015)

16.50.030. Applicability.

A. This chapter shall apply to all areas outside of the shoreline jurisdiction within the municipal boundaries of the city which contain critical areas and their buffers as defined in this chapter.

B. These provisions apply to projects undertaken by either private or public entities.

C. All development permits, including but not limited to building, grading, drainage, short plats, lot line adjustments, variances, conditional and special uses, and demolition, shall be reviewed pursuant to the provisions of this chapter.

D. Variances to the provisions in this chapter shall not be granted, except as provided for in MMC 16.50.050.

(Code 1988 § 20.50.030; Ord. No. 924 § 3 (Att. B), 2015)

16.50.035 Guidance documents adopted by reference; Director authority.

A. The following documents are referenced in this Subtitle 16.50 MMC and are hereby adopted by reference and incorporated herein:

1. 1987 Corps of Engineers Wetland Delineation Manual by the U.S. Army Corps of Engineers (USACE);
2. 2010 Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (Version 2.0);
3. Washington Department of Ecology Wetland Rating System for Western Washington: 2014 Update, Version 2.0 (Hruby and Yahnke 2023) (Ecology Publication No. 23-06-009);
4. Department of Fish and Wildlife Water Crossing Design Guidelines, May 2013;
5. National Marine Fisheries Service Anadromous Salmonid Passage Facility Design, February 2008; or
6. Guidelines for Salmonid Passage at Stream Crossings in Oregon, Washington, and Idaho (June 2022); and
7. Invasive or noxious species listed by the Washington State Noxious Weed Control Board or the King County Noxious Weed Control.
8. The Washington Department of Fish and Wildlife's Priority Habitats and Species management recommendation publications

B. The Director shall have the authority to adopt updated versions of the documents adopted in this section by publishing links to the updates onto the city website and placing these updated documents on file with the clerk's office. In such case, the updated documents shall apply.

16.50.040. Exemptions, existing structures, ~~trams~~ and limited exemptions.

A. *Critical areas exemptions.* The following developments, activities and associated uses shall be exempt from the requirements of this chapter; provided, that they are otherwise consistent with the provisions of other local, state, and federal laws and requirements:

1. Emergency actions 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 action in a time frame too short to allow compliance with this chapter, provided:

   a. Immediately after the emergency action is completed, the owner shall notify the city of these actions within 14 days; and

   b. The owner shall fully restore and/or mitigate any impacts to critical areas and buffers in accordance with an approved critical area report and mitigation plan.

   c. Emergency actions shall use reasonable methods to address the emergency with the least possible impact on the critical area. Emergency response measures shall not include the construction of new permanent structures where none previously existed. In instances where the Director determines that a new protective structure constitutes an appropriate response to the emergency, such structure shall either be removed upon abatement of the emergency condition or shall be subject to the acquisition of all permits that would have been required in the absence of an emergency. The Director shall determine if the action taken was within the scope of the emergency actions allowed in this subsection.

2. Operation, maintenance, remodel or repair of existing structures and facilities, provided there is no further intrusion into a critical area or its buffer and there is no significant increase in risk to life or property as a result of the action.

3. Passive recreation, education, and scientific research activities that do not degrade critical areas or buffers, such as fishing, hiking and bird watching, not including trail building or clearing.

4. Minor site investigative work necessary for land use submittals, such as surveys, soil logs, percolation tests, and other related activities, where:

   a. Such activities do not require construction of new roads or significant amounts of excavation; and

   b. The disruption to the critical areas and buffers shall be minimized and the disturbed areas immediately restored.

5. Construction or modification of navigational aids and boundary markers.

B. *Existing structures.*

1. Existing structures that are legally established may be maintained, repaired and remodeled provided there is no further intrusion into a critical area or its buffer.

2. All new construction must conform to the requirements of this chapter except as provided for single-family residences in subsection (C)(1) of this section and in compliance with the provisions of Chapter 16.36 MMC Nonconformity.

3. Structures damaged or destroyed due to disaster (including nonconforming structures) may be rebuilt in like kind in accordance with Chapter 16.36 MMC and provided there is no net loss of critical area functions. Reconstruction of structures that have been abandoned for more than 12 consecutive months, or where the previous structure has been demolished, shall comply with current code requirements.

C. *Limited critical areas exemptions.* The following developments, activities, and associated uses shall not be required to follow a critical areas review process; provided, that they are consistent with the requirements of this chapter. The city may condition approval of such to ensure adequate critical areas protection:

1. Existing single-family residences may be expanded, reconstructed, or replaced, provided all of the following are met:

   a. The existing single-family residence may expand vertically to add upper stories;

   b. Expansion within a critical area buffer is limited to 500 square feet of footprint beyond the existing footprint;

   c. The expansion extends no closer to critical area than the existing setback;

   d. The proposal preserves the functions and values of wetlands, fish and wildlife habitat conservation areas, and their buffers;

   e. The proposal includes ~~on-site mitigation to offset any impacts~~ mitigation, which may be located on-site or off-site, as determined appropriate by the City, and is sufficient to fully offset to critical areas and their buffers, consistent with best available science and in accordance with MMC 16.50.60(C) mitigation sequencing;

   f. The proposal will not significantly affect drainage capabilities, flood potential, and steep slopes and landslide hazards on neighboring properties; and

   g. The expansion would not cause a tree within a buffer to be labeled as a hazardous tree and thus require the removal of the hazardous tree;

2. Replacement, modification, installation or construction of streets and utilities in existing developed utility easements, improved city street rights-of-way, or developed private streets. Utilities include water, sewer lines, and stormwater and franchise (private) utilities such as natural gas lines, telecommunication lines, cable communication lines, electrical lines and other appurtenances associated with these utilities. The activity cannot further permanently alter or increase the impact to, or encroach further within, a critical area or buffer and must utilize best management practices;

3. Public and private nonmotorized trails. Public and private pedestrian trails, provided:

   a. An alternatives analysis demonstrates there is no practicable alternative that would avoid the critical area or its buffer, or that would place the trail farther from the critical area while still meeting the essential purpose of the trail ~~There is no practicable alternative that would allow placement of the trail outside of critical areas or their buffers~~;

   b. The trail surface shall ~~meet all other requirements including water quality~~ standards ~~be~~ be pervious or elevated (e.g., boardwalk) where feasible, meet applicable water quality standards, and be designed to minimize grading, vegetation removal, and soil compaction;

   c. Trails proposed in stream or wetland buffers shall be located in the outer 25 percent of the buffer area, except when bridges or access points are proposed and no practicable alternative exists;

   d. Stream and wetland buffer widths shall be increased, where possible, equal to the width of the trail corridor, including disturbed areas, or an equivalent area of degraded buffer within the same buffer segment shall be enhanced to maintain no net loss of buffer function;

   e. Trail corridors in critical areas and buffers shall not exceed five ~~six~~ feet in width, except that up to eight feet may be approved to meet ADA accessibility or multi-use safety needs, as demonstrated in the alternatives analysis; ~~and~~

f. Trails proposed to be located in landslide or erosion hazard areas shall be constructed in a manner that does not increase the risk of landslide or erosion and in accordance with an approved geotechnical report and shall incorporate measures to avoid directing drainage toward the hazard area;

g. Trail location, design, and construction shall minimize impacts and disturbances to the extent practicable, be informed by the most current WDFW Priority Habitats and Species data, and incorporate applicable management recommendations;

h. Lighting, fencing, and signage shall be wildlife-friendly, minimize disturbance, and be located only where necessary for safety or resource protection; and

i. Areas of temporary disturbance shall be restored promptly following the completion of the disturbance. Restoration shall include replanting with native vegetation appropriate to the site.

4. Select vegetation removal activities. The following limited vegetation removal activities are allowed in critical areas and buffers. Otherwise, removal of any vegetation or woody debris from a critical area shall be prohibited unless the action is part of an approved alteration.

a. The removal of ~~the following~~ vegetation consisting of invasive or noxious species listed by the Washington State Noxious Weed Control Board or the King County Noxious Weed Control Program with hand labor and/or light equipment; provided, that the appropriate erosion-control measures are used; herbicide application, where necessary, is limited to Washington State Department of Ecology–approved aquatic herbicides and adjuvants; hazardous substances are avoided; soil disturbance and compaction are minimized; and all disturbed areas are promptly replanted with native vegetation consistent with MMC 16.50.060(D)(7)(d). ~~and the area is replanted with native vegetation:~~

~~i. Invasive weeds;~~

~~ii. Himalayan blackberry (Rubus discolor, R. procerus);~~

~~iii. Evergreen blackberry (R. laciniatus);~~

~~iv. Ivy (Hedera spp.); and~~

~~v. Holly (Ilex spp.), laurel, Japanese knotweed (Polygonum cuspidatum), or any other species on the King County Noxious Weed List.~~ b. The cutting and removal of trees that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private property, from critical areas and buffers; provided, that:

i. The applicant submits a report from a qualified professional (e.g., certified arborist or professional forester) that documents the hazard as specified in Chapter 16.52 MMC and provides a replanting schedule for replacement trees;

ii. Tree cutting shall be limited to limb and crown thinning, unless otherwise justified by a qualified professional. Where limb or crown thinning is not sufficient to address the hazard, trees should be topped to remove the hazard rather than cut at or near the base of the tree, and the method of removal shall avoid adverse impacts to riparian ecosystem functions to the maximum extent practicable;

iii. All native vegetation cut (tree stems, branches, tops, etc.) shall be left within the critical area or buffer unless removal is warranted due to the potential for disease transmittal to other healthy vegetation or the remaining material would threaten the survival of existing native vegetation. However, no cut material shall be left on a steep slope or landslide

hazard area without the approval of a qualified professional. Retained material should be placed to avoid obstructing hydrologic flows or causing bank instability;

iv. Trees shall be cut to leave standing snags when doing so allows the hazard of the tree to be eliminated, unless removal is necessary to address public safety or property damage risks;

v. The landowner shall replace any native trees that are felled ~~or topped~~ with new trees at ratios specified in Chapter 16.52 MMC within one year in accordance with an approved restoration plan prepared by a qualified professional. Tree species that are native and indigenous to the site shall be used;

vi. If a tree to be removed provides critical habitat, such as an eagle perch, a qualified wildlife biologist shall be consulted to determine timing and methods for removal that will minimize impacts; ~~and~~

vii. Hazard trees determined to pose an imminent threat or danger to public health or safety, or to public or private property, or serious environmental degradation may be removed or topped by the landowner prior to receiving written approval from city; provided, that within 14 days following such action, the landowner shall submit a restoration plan that demonstrates compliance with the provisions of this title;~~.~~ and

viii. Removal activities shall avoid and minimize damage to remaining trees and vegetation within the critical area or its associated buffer, limit equipment use to hand tools or low-impact machinery where feasible, and implement soil protection measures to minimize disturbance and compaction.

c. Trimming of vegetation for purposes of providing view corridors will be allowed; provided:

i. It is consistent with Chapters 14.08 and 16.52 MMC and that trimming shall be limited to view corridors of 20 feet in width or less;

ii. The limbs involved do not exceed three inches in diameter;

iii. Not more than 25 percent of the live crown is removed;

iv. Benefits to fish and wildlife habitat are not reduced;

v. Trimming is limited to hand pruning of branches and vegetation; and

vi. Trimming does not include felling, topping, stripping, excessive pruning or removal of trees.

d. Measures to control a fire or halt the spread of disease or damaging insects consistent with the State Forest Practices Act, Chapter 76.09 RCW; provided, that the removed vegetation shall be replaced in-kind or with similar native species within one year in accordance with an approved restoration plan prepared by a qualified professional; and

5. Conservation, preservation, restoration and/or enhancement.

a. Conservation and/or preservation of soil, water, vegetation, fish and/or other wildlife that does not entail alteration of the location, size, dimensions or functions of an existing critical area and/or buffer; and

b. Restoration and/or enhancement of critical areas or buffers; provided, that actions do not alter the location, dimensions or size of the critical area and/or buffer; that actions do not alter or disturb existing native vegetation or wildlife habitat attributes; that actions improve and do not reduce the existing functions of the critical areas or buffers; and that actions are implemented according to a restoration and/or enhancement plan that has been approved by the city.

(Code 1988 § 20.50.040; Ord. No. 958 § 2, 2018; Ord. No. 924 § 3 (Att. B), 2015)

16.50.050. Relief from critical areas regulations.

A. Reasonable Use Exception

1. If strict application of this chapter would deny all reasonable use of the subject property, the owner may apply for a reasonable use exception pursuant to MMC 16.72.060.
    a. The proposed use is the minimum necessary to allow reasonable use of the property and there is no feasible alternative with less impact to critical areas;
    b. The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant or a predecessor in interest after the effective date of this regulation;
    c. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
    d. The proposal will result in no net loss of critical area functions and values consistent with the best available science; and
    e. The proposal is consistent with other applicable regulations and standards.

B. Public Agency Utility Exemption

1. If application of this chapter would prohibit a development proposal by a public agency or public utility, the agency or utility may apply for an exception from the requirements of this chapter pursuant to MMC 16.72.070.
2. The agency or utility must prepare a study requesting the exemption and submit it to the Director and must incorporate other required documents such as land use or building construction permit applications, critical areas studies, and SEPA documents.
3. The Director is responsible for reviewing studies and applications and makes the final decision to approve, approve with conditions, or deny the exemption based on the following criteria:
    a. There is no other practical alternative to the proposed development with less impact on the critical areas;
    b. The application of the critical area regulations would unreasonably restrict the ability to provide utility services to the public;
    c. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
    d. The proposal attempts to protect and mitigate impacts to the critical area functions and values consistent with the best available science; and
    e. The proposal is consistent with other applicable regulations and standards.
4. This exemption may not allow the use of the following critical areas for regional retention/detention facilities except where there is a clear demonstration the facility is required to protect public health and safety or to repair damaged natural resources including:
    a. Category I or II wetlands or their buffers with Federal or State threatened or endangered plant species; and

b. Category I or II wetlands or their buffers which provide critical or outstanding actual habitat for the following unless the applicant clearly demonstrates that there would be no adverse impact on critical or outstanding actual habitat for:

i. Species listed as endangered or threatened by the Federal or State government;

ii. Washington Department of Fish and Wildlife priority species;

iii. Herons;

iv. Raptors;

v. Salmonids and salmon habitat.

(Code 1988 § 20.50.050; Ord. No. 924 § 3 (Att. B), 2015)

16.50.060. General requirements.

A. *Avoid impacts to critical areas.*

1. The applicant shall avoid all impacts that degrade the functions and values of a critical area(s) and/or buffer(s) or do not result in an acceptable level of risk for a steep slope hazard area and/or its buffer.

2. Unless otherwise provided for in this chapter:

a. If alteration to fish and wildlife habitat conservation areas, wetlands and/or their buffers is proposed, impacts resulting from a development proposal or alteration shall be mitigated in accordance with the mitigation sequencing set forth in subsection (C) of this section and an approved critical area report and any applicable SEPA documents; or

b. A development proposal or alteration within a geologically hazardous area and/or its buffer must comply with a geotechnical report approved by the city that assesses the risk to health and safety, and makes recommendations for reducing the risk to acceptable levels through engineering, design, and/or construction practices.

B. *Mitigation.*

1. Mitigation shall be in-kind and on site, where feasible, and sufficient to maintain critical areas and/or buffer functions and values, and to prevent risk from hazards posed by a critical area.

2. Mitigation shall not be implemented until after the city approves the applicable critical area report and mitigation plan. Following city approval, mitigation shall be implemented in accordance with the provisions of the approved critical area report and mitigation plan.

C. *Mitigation sequencing.*

1. Applicants must demonstrate that all reasonable efforts have been examined with the intent to avoid or minimize impacts to critical areas and buffers.

2. When an alteration to a critical area and/or buffer is proposed, such alteration shall follow the mitigation sequencing set forth as follows:

a. For fish and wildlife habitat conservation areas, wetlands and/or their buffers, avoiding the impact altogether by not taking a certain action or parts of an action;

b. For geological hazards, minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods;

c. Minimizing impacts by limiting the degree or magnitude of the action by using appropriate technology, or by taking affirmative steps to avoid or reduce the impact;

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

e. Reducing or eliminating the impacts over time by preservation and/or maintenance operations;

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

g. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

D. *Mitigation plan requirements.* Where mitigation is required, the applicant shall submit, and obtain approval from the city, a mitigation plan as part of, or in addition to, the critical area report. The mitigation plan shall include the following information:

1. A description of existing critical areas and/or buffers conditions, functions, and values, and a description of the anticipated impacts;

2. A description of proposed mitigating actions and mitigation site selection criteria;

3. A description of the goals and objectives of proposed mitigation relating to impacts to the functions and values of the critical area(s) and/or buffer(s);

4. A review of the best available science supporting proposed mitigation, a description of the plan/report author's experience to date in restoring or creating the type of critical area proposed, and an analysis of the likelihood of success of the mitigation project;

5. A description of specific measurable criteria for evaluating whether or not the goals and objectives of the mitigation plan have been successfully attained and whether or not the requirements of these critical area regulations have been met;

6. Detailed construction plans including site diagrams, cross-sectional drawings, topographic elevations at one- or two-foot contours, slope percentage, final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome;

7. Construction plans should also include specifications and descriptions of:

a. Proposed construction sequence, timing, and duration;

b. Grading and excavation details;

c. Erosion and sediment control features;

d. A planting plan <u>consisting of native species appropriate to the site and eco-region, sourced from plant stock grown under local conditions where available, to increase survival and resilience to climate stressors. The planting plan shall specify</u> ~~specifying~~ plant species, quantities, locations, size, spacing, and density, with density standards as follows:

i. *Forested conditions.*

(A) *Trees:* Nine feet on center, or 0.012 trees per square foot (this assumes two- to five-gallon size) with at least 50 percent conifers;

(B) *Shrubs:* Six feet on center, or 0.028 shrubs per square foot (this assumes one- to two-gallon size); and

(C) *Herbs and groundcovers:* Four feet on center, or 0.063 plants per square foot (this assumes ten-inch plug or four-inch pot).

ii. *Shrub conditions.*

(A) *Shrubs:* Five feet on center, or 0.04 shrubs per square foot (this assumes one- to two-gallon size); and

(B) *Herbs and groundcovers:* Four feet on center, or 0.063 plants per square foot (this assumes ten-inch plug or four-inch pot).

iii. *Emergent, herbaceous and/or groundcover conditions.*

(A) *Herbs and groundcovers:* One foot on center, or one plant per square foot (this assumes ten-inch plug or four-inch pot); or

(B) *Herbs and groundcovers:* Eighteen inches on center, or 0.444 plants per square foot if supplemented by overseeding of native herbs, emergent or graminoids as appropriate;

e. Measures to protect and maintain plants until established;

8. A maintenance and monitoring program containing, but not limited to, the following:

a. The methods of assuring the property owner is informed about the mitigation locations, maintenance, monitoring period and closure, and financial guarantee release requirements.

b. An outline of the schedule for site monitoring;

c. Performance standards including, but not limited to, 100 percent survival of newly planted vegetation within the first two years of planting, and 80 percent for years three or more;

d. Contingency plans identifying courses of action and any corrective measures to be taken if monitoring or evaluation indicates performance standards have not been met; and

e. The period of time necessary to establish that performance standards have been met, shall be based on critical area type and vegetation community, and shall not be less than five years for all critical area mitigation sites. Extended monitoring periods may be required by the City when site-specific conditions, mitigation complexity, or best available science indicate a longer period is necessary to ensure successful establishment and persistence of functions and values. Monitoring shall be the responsibility of the applicant and conducted by a qualified professional, with reports submitted to the City in accordance with the approved mitigation plan. ~~not to be less than three years;~~

9. The mitigation plan shall include financial guarantees to ensure that the mitigation plan is fully implemented. Financial guarantees ensuring fulfillment of the compensation project, monitoring program, and any contingency measures shall be posted in accordance with subsection (G) of this section;

10. Other information determined necessary by the Director.

E. *Determination process.* The Director shall make a determination as to whether the proposed activity and mitigation, if any, are consistent with the provisions of these critical areas regulations. The Director's determination shall be based on the following:

1. Any alteration to a critical area and/or critical area buffer, unless otherwise provided for in these critical area regulations, shall be reviewed and approved, approved with conditions, or denied based on the proposal's ability to comply with all of the following criteria:

a. The proposal will result in no net loss of functions and values of the critical area(s) and/or buffer(s) in accordance with the mitigation sequencing prescribed in subsection (C) of this section;

b. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;

c. The proposal is consistent with the general purposes of these critical area regulations and the public interest;

d. Any impacts permitted to the critical area and/or buffers are mitigated in accordance with subsections (B), (C) and (D) of this section;

e. The proposal protects critical area and/or buffer functions and values consistent with the best available science; and

f. The proposal is consistent with other applicable regulations and standards.

2. The city may condition the proposed activity as necessary to mitigate impacts to critical areas and/or buffers and to conform to the standards required by these critical area regulations.

3. Except as provided for by these critical area regulations, any project that cannot adequately mitigate its impacts to critical areas and/or buffers shall be denied.

4. The city may require critical area or geotechnical reports to have an evaluation by an independent qualified professional at the applicant's expense when determined to be necessary to the review of the proposed activity.

F. *NGPAs in development proposals.* Native growth protection areas (NGPAs) shall be used in development proposals for subdivisions and short subdivisions in accordance with the following:

1. NGPAs shall delineate and protect those contiguous critical areas and buffers listed below:

a. All landslide hazard areas and buffers, except when a development proposal is approved in a landslide hazard area and/or buffer per a geotechnical report;

b. All wetlands and buffers;

c. All fish and wildlife habitat conservation areas; and

d. All other lands to be protected from impacts as conditioned by project approval;

2. NGPAs shall be recorded on all documents of title of record for all affected lots;

3. NGPAs shall be designated on the face of the plat or recorded drawing in a format approved by the city and include the following restrictions:

a. Native vegetation shall be preserved within the NGPA for the purpose of preventing harm to property and the environment; and

b. The city has the right to enforce NGPA restrictions.

G. *Performance securities.* The city may require the applicant of a development proposal to post a cash performance bond or other acceptable security in a form and amount determined sufficient to guarantee satisfactory workmanship, materials and performance of structures and improvements allowed or required by application of this chapter. The city shall release the security upon determining that all structures and improvements have been satisfactorily completed. If all such structures and improvements are not completed to the satisfaction of the city within the time period set forth in the security (or 12 months from posting if no other time period is stated), the city may take all measures which the city, in its sole discretion, deems reasonable and recover all costs of such measures from the security, including all consulting fees and all attorney's fees incurred.

(Code 1988 § 20.50.060; Ord. No. 924 § 3 (Att. B), 2015)

16.50.070. Critical areas report.

A. If fish and wildlife habitat conservation areas, wetlands, steep slopes and/or their buffers may be affected by a proposed activity, the applicant shall submit a critical area report meeting the following requirements:

1. Prepared by a qualified professional;

2. Incorporate best available science in the analysis of critical area data and field reconnaissance and reference the source of science used; and

3. Evaluate the proposal and all probable impacts to critical areas in accordance with the provisions of these critical area regulations.

B. At a minimum the report shall include the following information:

1. The applicant's name and contact information, a project description, project location, and identification of the permit requested;

2. A site plan showing:

a. The development proposal with dimensions and any identified critical areas and buffers within 200 feet of the proposed project; and

b. Limits of any areas to be cleared;

3. The date the report was prepared;

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

5. Identification and characterization of all noncritical areas and critical areas and their buffers within, and adjacent to, the proposed project area. This information shall include, but is not limited to:

a. Size or acreage, if applicable;

b. Applicable topographic, vegetative, faunal, soil, substrate and hydrologic characteristics; and

c. Relationship to other nearby critical areas;

6. An assessment of the probable direct, indirect, and cumulative impacts to critical areas resulting from the proposed development, including short-term and long-term impacts to critical area functions and values within and adjacent to the site;

7. An analysis of site development alternatives;

8. A description of reasonable efforts made to apply mitigation sequencing pursuant to MMC 16.50.060(C) to avoid or compensate for impacts to critical area and buffer functions and values;

9. Plans for mitigation in accordance with MMC 16.50.060(B), (C) and (D); and

10. Any additional information required for the critical area as specified in this chapter.

C. The applicant may consult with the Director prior to or during preparation of the critical area report to obtain city approval of modifications to the required contents of the report where, in the judgment of a qualified professional, more or less information is required to adequately address the potential critical area impacts and required mitigation.

D. The Director may require additional information to be included in the critical area report and may also require the critical area report to include an evaluation by the Department of Ecology or an independent

qualified expert when determined to be necessary to the review of the proposed activity in accordance with these critical area regulations.

(Code 1988 § 20.50.070; Ord. No. 924 § 3 (Att. B), 2015)

16.50.080. Wetlands.

A. *Designation.*

1. Wetlands are those areas designated in accordance with WAC 173-22-035, including the 1987 Corps of Engineers Wetland Delineation Manual by the U.S. Army Corps of Engineers (USACE) and the 2010 Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (Version 2.0),.~~the approved federal wetland delineation manual and applicable regional supplements set forth in WAC 173-22-035.~~

2. All areas within the city that meet the wetland designation criteria in the manual, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of these critical area regulations.

B. *Wetland ratings.* Wetlands shall be rated according to the Washington Department of Ecology Wetland Rating System for Western Washington: 2014 Update, Version 2.0 (Hruby and Yahnke 2023) (Ecology Publication No. 23-06-009) ~~14-06-029~~, or as revised and approved by Ecology. These documents contain the definitions and methods for determining if the criteria below are met.

C. *Wetland rating categories.*

1. Wetlands shall be classified and described consistent with the categories and definitions contained in the Washington Department of Ecology Wetland Rating System for Western Washington: 2014 Update, Version 2.0 (Hruby and Yahnke 2023), Ecology Publication No. 23-06-009.~~The following table provides a summary of the categories of wetlands and the criteria for their categorization:~~

~~Table 16.50.080(C): Wetland Categories~~

~~Category~~	~~Criteria for Designation~~
~~Category I~~	~~• Represent a unique or rare wetland type;~~
	~~• Are more sensitive to disturbance than most wetlands;~~
	~~• Are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or~~
	~~• Provide a high level of functions.~~
~~Category II~~	~~• Are not defined as Category I wetlands;~~
	~~• Are difficult, though not impossible, to replace;~~
	~~• Provide high levels of some functions.~~
~~Category III~~	~~• Do not satisfy Category I or II criteria;~~
	~~• Can often be adequately replaced with a well-planned mitigation project;~~
	~~• Provide moderate levels of functions.~~
~~Category IV~~	~~• Do not satisfy Category I, II or III criteria;~~
	~~• Can often be adequately replaced and improved upon with a well-planned mitigation project;~~

	• ~~Provide the lowest levels of functions;~~
	• ~~Often are heavily disturbed.~~

2. Date of wetland rating. Wetland rating categories shall be applied as the wetland exists on the date of adoption of the rating system by the city, as the wetland naturally changes thereafter, or as the wetland changes in accordance with permitted activities.

3. Wetland rating categories shall not change due to illegal modifications made by the property owner or with the property owner's knowledge.

D. *Mapping.*

1. The approximate location and extent of known wetlands are identified in the City of Medina critical areas inventory. This inventory is to only be used as a guide for the city, project applicants, and/or property owners, and may be continuously updated as new critical areas are identified. The inventory is only a reference and does not provide a final critical area designation.

2. The exact location of a wetland's boundary shall be determined through the performance of a field investigation by a qualified professional applying approved federal wetland delineation manual and applicable regional supplements, as revised, as required by RCW 36.70A.175.

E. *Wetlands—Development standards.*

1. Activities and uses shall be prohibited within wetland and wetland buffer areas, except as provided for in this title.

2. The following table establishes wetland buffer widths:

Table 16.50.080(E): Wetland Buffer Widths

Wetland Category	Standard Buffer Width (ft) without minimization measures/habitat corridor	Mitigated Buffer Width (ft) with minimization measures/habitat corridor
Category I		
Bogs and Wetlands of High Conservation Value	250	190
Habitat score 8-9	300	225
Habitat score 6-7	150	110
Habitat score 3-5	100	75
Category II		
Habitat score 8-9	300	225
Habitat score 6-7	150	110
Habitat score 3-5	100	75
Category III		
Habitat score 8-9	300	225

Wetland Category	Standard Buffer Width (ft) without minimization measures/habitat corridor	Mitigated Buffer Width (ft) with minimization measures/habitat corridor
Habitat score 6-7	150	110
Habitat score 3-5	80	60
Category IV		
All types	50	40

3. Wetland buffers shall be vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with noxious weeds that do not perform needed functions, the buffer shall either be planted to create the appropriate native plant community per standards and requirements of MMC 19.40.180 or be widened to ensure that the buffer provides adequate functions to protect the wetland.
4. Impact minimization measures in the following table are required for developments proposing to use the mitigated buffer widths (righthand column) in the previous table. The applicant shall implement as many measures as practical and applicable in Table 16.50.080(F).
5. The width of a wetland buffer shall be determined by the wetland category designated in subsection (A) of this section and the corresponding habitat scoring of the wetland set forth in Table 16.50.080(E).
6. Measurement of wetland buffers shall be from the outer edges of the wetland boundaries as determined through the performance of a field investigation by a qualified professional applying the wetlands identification and delineation pursuant to subsection (A) of this section and as surveyed in the field.
7. Buffers may exclude areas that are functionally and effectively disconnected from the wetland by an existing public or private road or legally established development, as determined by the Director. Functionally and effectively disconnected means that the road or other significant development blocks the protective measures provided by a buffer. Significant developments shall include built public infrastructure such as roads and railroads, and private developments such as homes or commercial structures. The Director shall evaluate whether the interruption will affect the entirety of the buffer. Individual structures may not fully interrupt buffer function. In such cases, the allowable buffer exclusion should be limited in scope to just the portion of the buffer that is affected. Where questions exist regarding whether a development functionally disconnects the buffer, or the extent of that impact, the Director may require a critical area report to analyze and document the buffer functionality.
8. For wetlands that score six points or more for habitat function, use of the mitigated buffers widths is allowed if a habitat corridor is provided consistent with the following criteria:
    a. A relatively undisturbed, vegetated corridor at least 100 feet wide is protected between the wetland and:
        i. A legally protected, relatively undisturbed and vegetated area (e.g., Priority Habitats, compensatory mitigation sites, wildlife areas/refuges, national, county, and state parks

where they have management plans with identified areas designated as Natural, Natural Forest, or Natural Area Preserve), or

ii. An area that is the site of a Watershed Project identified within, and fully consistent with, a Watershed Plan as defined by RCW 89-08-460, or

iii. An area where development is prohibited according to the provisions of the local shoreline master program, or

iv. An area with equivalent habitat quality that has conservation status in perpetuity, in consultation with WDFW.

9. The corridor is permanently protected for the entire distance between the wetland and the shoreline or legally protected area by a conservation easement, deed restriction, or other legal site protection mechanisms.

10. Presence or absence of the shoreline or Priority Habitat must be confirmed by a qualified professional or shoreline Administrator

11. The Impact Minimization Measures are implemented, as applicable, to minimize the impacts of the adjacent land uses.

12. If a habitat corridor is not present, mitigated buffer widths shall be allowed through demonstrated use of applicable measures listed in the Impact Minimization Measures table and the presence or absence of a potential habitat corridor must be determined by a qualified professional.

13. If an applicant does not apply the minimization measures or does not provide a protected corridor when one is available, then the standard buffers shall be used.

F. Wetland Impact Minimization Measures

Table 16.50.080(F) Wetland Impact Minimization Measures

Example of disturbance	Activities and uses that cause disturbances	Examples of measures to minimize impacts
Lights	• Parking lots • Commercial/Industrial • Recreation (e.g., athletic fields) • Residential • Agricultural buildings	• Direct lights away from wetland • Only use lighting where necessary for public safety and keep lights off when not needed • Use motion-activated lights • Use full cut-off filters to cover light bulbs and direct light only where needed • Limit use of blue-white colored lights in favor of red-amber hues • Use lower-intensity LED lighting • Dim light to the lowest acceptable intensity
Noise	• Commercial/Industrial • Recreation (e.g., athletic fields, bleachers, etc.) • Residential • Agriculture	• Locate activity that generates noise away from wetland • Construct a fence to reduce noise impacts on adjacent wetland and buffer • Plant a strip of dense shrub vegetation adjacent to wetland buffer

Example of disturbance	Activities and uses that cause disturbances	Examples of measures to minimize impacts
Toxic runoff	• Parking lots • Roads • Commercial/Industrial • Residential areas • Landscaping • Agriculture	• Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered • Establish covenants limiting use of pesticides within 150 feet of wetland • Apply integrated pest management
Stormwater runoff	• Parking lots • Roads • Commercial/Industrial • Residential areas • Recreation • Landscaping/lawns • Other impermeable surfaces, compacted soil, etc.	• Retrofit stormwater detention and treatment for roads and existing adjacent development • Prevent channelized flow or sheet flow from lawns that directly enter the buffer • Infiltrate or treat, detain, and disperse new runoff from impervious surfaces and lawns
Pets and human disturbance	• Residential areas • Recreation	• Use privacy fencing • Plant dense native vegetation to delineate buffer edge and to discourage disturbance • Place wetland and its buffer in a separate tract • Place signs around the wetland buffer every 50 to 200 feet, and for subdivisions place signs at the back of each residential lot • When platting new subdivisions, locate greenbelts, stormwater facilities, and other lower intensity uses adjacent to wetland buffers
Dust	• Tilled fields • Roads	• Use best management practices to control dust

~~F. *Wetland buffer reduction.* The wetland buffer widths in Table 16.50.080(E) may be reduced by up to a maximum of 25 percent provided:~~

~~1. The amount of reduction is based on voluntary employment of incentive-based action measures set forth in subsection (G) of this section;~~

~~2. A critical areas report prepared by a professional with expertise in wetlands and approved by the city using the best available science determines a smaller area can be adequate to protect the wetland functions and values based on site-specific characteristics;~~

~~3. The mitigation provided will result in a net improvement of the wetland and buffer functions;~~

~~4. Any remaining wetland buffer areas on the property not subject to the reduction, but are degraded, are revegetated with native plants; and~~

5. A five-year monitoring and maintenance program is provided.

G. *Wetland buffer reduction incentive options.* Table 16.50.080(G) provides incentive options that may be employed to reduce a wetland buffer width as allowed in subsection (F) of this section. Where multiple options for an action are prescribed in the table, only one option under that action may be applied.

Table 16.50.080(G): Wetland Buffer Reduction Incentive Options

Description of Action	Option	Reduction Allowance
Remove impervious surface within wetland buffer area	Remove at least 50 percent of the impervious surface area within the reduced buffer area, provided the total impervious surface area removed is less than 500 square feet	5 percent points
	Remove at least 50 percent of the impervious surface area within the reduced buffer area, provided the total impervious surface area removed is more than 500 square feet	10 percent points
	Remove 100 percent of impervious surface area within the reduced buffer area, provided at least 50 percent of the reduced buffer area presently contains impervious surface	20 percent points
Install biofiltration/infiltration mechanisms	Install bioswales, created and/or enhanced wetlands, or ponds supplemental to existing surface water drainage and water quality requirements	20 percent points
Remove invasive, nonnative vegetation	Remove invasive, nonnative vegetation and continue maintenance during the five-year monitoring program of removing relatively dense stands of invasive, nonnative vegetation from significant portions of the reduced buffer area	10 percent points
Install oil-water separator	If not required by other provisions of the Medina Municipal Code, install oil-water separators for surface water quality control	10 percent points
Replace impervious materials	Replace impervious materials for driveway/road construction with pervious materials	10 percent points
Provide off-site restoration where no on-site restoration is available	Restoration is provided at a 2:1 ratio or greater	10 percent points
	Restoration is provided at a 4:1 ratio or greater	20 percent points

~~Remove toxic materials~~	~~Remove significant refuse or sources of toxic material~~	~~10 percent points~~

G. *Averaging of wetland buffer width.* The city may allow the wetland buffer width around the boundaries of the wetland to be averaged provided all of the following criteria are met:

1. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a dual-rated wetland with a Category I area adjacent to a lower-rated area ~~The proposal results in a net improvement of wetland, habitat and buffer function~~;

2. ~~The proposal includes revegetation of the averaged buffer using native plants, if needed~~ The buffer is increased adjacent to the higher-functioning area of habitat or more-sensitive portion of the wetland and decreased adjacent to the lower- functioning or less-sensitive portion as demonstrated by a critical area report from a qualified wetland professional;

3. ~~The total area contained in the buffer of each wetland on the development proposal site is not decreased~~ The total area of the buffer after averaging is equal to the area required without averaging;

4. ~~The wetland buffer width is not reduced by more than 25 percent in any one location~~ The buffer at its narrowest point is never less than either 75 percent of the required width or 75 feet for Category I and II, 50 feet for Category III, and 25 feet for Category IV, whichever is greater; and

5. A critical areas report meeting the requirements set forth in MMC 16.50.070 indicates the criteria in this subsection are satisfied.

I. Increased Wetland Buffer Width. Buffer widths shall be increased by 33 percent as determined by the Director, through review od a critical areas report when a wider buffer is necessary to protect wetland functions and values. This determination shall be supported by appropriate documentation showing that it is reasonably related to protection of the functions and values of the wetland. The documentation shall include but not be limited to the following criteria:

a. The wetland is used by a state or federally listed plant or animal species. These species would be those listed under WAC 220-610-010, 50 CFR 17-11, 50 CFR 17-12, or other state or federal regulations;

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

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

d. The adjacent land has minimal vegetative cover; or

i. More than 25 percent of the buffer area is covered by nonnative and/or invasive plant species; or

ii. Tree and/or shrub vegetation covers less than 25 percent of the buffer area and the wetland buffer has a slope less than 25 percent

e. The land has slopes greater than 30 percent.

J. *Buffers for mitigation shall be consistent.* All mitigation sites shall have buffers consistent with the buffer requirements of this chapter. The buffer for a wetland that is created, restored, or enhanced as compensation for approved wetland alterations shall have the minimum buffer required for the highest wetland category involved.

K. *Buffer conditions shall be maintained.* The standard buffer widths assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided. Except as otherwise specified or allowed in accordance with these critical area regulations, ~~wetland buffers shall be retained in their natural condition~~ wetland buffers shall be undisturbed as well as retained in their natural condition.

L. *Temporary markers.* The outer perimeter of the wetland or buffer and the limits of those areas to be disturbed pursuant to an approved permit or authorization shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur, and inspected by the city prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction, and shall not be removed until permanent signs, if required, are in place pursuant to subsection (M) of this section.

M. *Permanent signs.*

1. As a condition of any permit or authorization issued pursuant to this chapter, the Director ~~city manager~~ or designee may require the applicant to install permanent signs along the boundary of a wetland or buffer.

2. Permanent signs shall be made of a metal face and attached to a metal post, or another material of equal durability. The sign shall be worded as follows or with alternative language approved by the city:

   Protected Wetland Area
   Do Not Disturb.
   Contact the City of Medina
   Regarding Uses and Restriction

3. Signs must be posted at an interval of one per lot or every 50 feet, whichever is less, and must be maintained by the property owner in perpetuity.

N. *Fencing.*

1. The Director ~~city manager~~ or designee may condition any permit or authorization issued pursuant to this chapter to require the applicant to install a permanent fence at the edge of the wetland buffer, when fencing will prevent future impacts to the wetland.

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

O. *Additional mitigation measures.* In addition to the requirements set forth in MMC 16.50.060(B), (C) and (D), when mitigation for wetland and/or wetland buffer impacts is required, the following supplementary requirements shall apply:

1. Mitigation for alterations to wetland and/or wetland buffer shall achieve equivalent or greater ecological functions and shall be consistent with ~~the Department of Ecology Guidance on Wetland Mitigation in Washington State (2004, Department of Ecology Publication No. 04-06-013)~~ Wetland Mitigation in Washington State–Part 1: Agency Policies and Guidance (Version 2) (Ecology, USACE, and EPA 2021 Publication number 21-06-003), as revised.

2. Wetland or wetland buffer mitigation actions shall not result in a net loss of wetland or buffer area, and shall follow the mitigation sequencing process identified in MMC 16.50.060(C). Compensation shall be provided at a level that replaces lost functions and values through Table MMC 16.50.080(O) or the credit-debit method (Ecology Publication No. 10-06-011). Mitigation shall not result in a net loss of wetland or buffer area except when the lost wetland or buffer area provides minimal functions and the mitigation action(s) results in a net gain in wetland or buffer functions, as determined by a site-specific function assessment using best available science.

3. Mitigation actions shall address and provide equivalent or greater wetland and buffer functions and values compared to wetland and buffer conditions existing prior to the proposed alteration.

4. Mitigation actions shall be in-kind and conducted within the same basin and on the same site as the alteration except when the following apply:

    a. There are no reasonable on-site opportunities for mitigation or on-site opportunities do not have a high likelihood of success due to development pressures, adjacent land uses, or on-site buffers or connectivity are inadequate;

    b. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland; and

    c. Off-site locations shall be in the same basin and the same Water Resource Inventory Area (WRIA).

5. Mitigation timing. Where feasible, mitigation projects shall be completed prior to activities that will disturb wetlands. In all other cases, mitigation shall be completed immediately following disturbance and prior to use or occupancy of the activity or development. Construction of mitigation projects shall be timed to reduce impacts to existing wildlife and flora.

6. Mitigation ratios.

    a. The ratios in the following table shall apply to wetland creation or restoration that is in-kind, on site, the same category, and has a high probability of success. The first number specifies the acreage of replacement wetlands and the second specifies the acreage of wetlands altered.

Table 16.50.080(O): Wetland Mitigation Ratios

Category of Impact Wetland	Creation or Re-establishment	Rehabilitation	Enhancement or Preservation
Category I: based on total score	4:1	8:1	16:1
Category I: Mature Forested	6:1	12:1	24:1
Category II	3:1	6:1	12:1
Category III	2:1	4:1	8:1
Category IV	1.5:1	3:1	6:1

    b. Increased replacement ratio. The Director may increase the ratios under the following circumstances:

        i. Uncertainty exists as to the probable success of the proposed restoration or creation; or

ii. A significant period of time will elapse between impact and replication of wetland functions; or

iii. Proposed mitigation will result in a lower category wetland or reduced functions relative to the wetland being impacted; or

iv. The impact was an unauthorized impact.

c. Decreased replacement ratio. The Director may decrease these ratios under the following circumstances: ~~if the proposed mitigation actions are conducted in advance of the impact and have been shown to be successful.~~

i. Documentation by a qualified professional demonstrates that the proposed mitigation actions have a very high likelihood of success based on prior experience;

ii. Documentation by a qualified professional demonstrates that the proposed actions for compensation will provide functions and values that are significantly greater than the wetland being affected;

iii. The proposed actions for compensation are conducted in advance of the impact and are shown to be successful; or

iv. In wetlands where several Hydrogeomorphic (HGM)classes are found within one delineated boundary, the areas of the wetlands within each HGM class can be scored and rated separately and the ratios adjusted accordingly, if all of the following apply:

a. The wetland does not meet any of the criteria for wetlands with "Special Characteristics" as defined in the rating system;

b. The rating and score for the entire wetland is provided along with the scores and ratings for each area with a different HGM class;

c. Impacts to the wetland are all within an area that has a different HGM class from the one used to establish the initial category; and

d. The proponents provide adequate hydrologic and geomorphic data to establish that the boundary between HGM classes lies at least 50 feet outside of the footprint of the impacts

d. Minimum replacement ratio. In all cases, a minimum acreage replacement ratio of one-to-one shall be required.

7. Wetland mitigation banks.

a. Credits from a certified wetland mitigation bank or in-lieu fee program may be approved for use as compensation for unavoidable impacts to wetlands when:

i. For mitigation banks, the bank is certified under Chapter 173-700 WAC;

ii. The Director ~~city manager~~ or designee determines that the wetland mitigation bank or in-lieu fee program provides appropriate compensation for the authorized impacts; and

iii. The proposed use of credits is consistent with the terms and conditions of the mitigation bank or in-lieu fee program.

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

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

8. Wetland enhancement as mitigation.

a. Impacts to wetlands may be mitigated by enhancement of existing significantly degraded wetlands.

b. Applicants proposing to enhance wetlands must produce a critical area report that identifies how enhancement will increase the functions of the degraded wetland and how this increase will adequately mitigate for the loss of wetland area and function at the impact site.

c. The enhancement acreage shall be pursuant to the ratios in Table 16.50.080(O).

(Code 1988 § 20.50.100; Ord. No. 924 § 3 (Att. B), 2015)

16.50.090. Geologically hazardous areas.

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

1. Erosion hazard;

2. Landslide hazard; and

3. Seismic hazard.

B. Specific hazard areas—Designation.

1. *Erosion hazard areas.* Erosion hazard areas are at least those areas identified by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a "moderate to severe," "severe," or "very severe" rill and inter-rill erosion hazard.

2. *Landslide hazard areas.* Landslide hazard areas are areas potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. Example of these may include, but are not limited to, the following:

a. Areas of historic failures, such as:

i. Those areas delineated by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a "severe" limitation for building site development;

ii. Areas designated as quaternary slumps, earth-flows, mudflows, lahars, or landslides on maps published by the U.S. Geological Survey or Department of Natural Resources;

b. Areas with all three of the following characteristics:

i. Slopes steeper than 15 percent; and

ii. Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and

iii. Springs or ground water seepage;

c. Slopes that are parallel or sub-parallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;

d. Areas potentially unstable because of rapid stream incision, stream bank erosion, and undercutting by wave action;

e. Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding; and

f. Steep slopes, which are any area with a slope of 40 percent or steeper and with a vertical relief of ten or more feet except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least ten feet of vertical relief.

3. *Seismic hazard areas.* Seismic hazard areas are areas subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction, lateral spreading, or surface faulting. One indicator of potential for future earthquake damage is a record of earthquake damage in the past. Ground shaking is the primary cause of earthquake damage in Washington. The strength of ground shaking is primarily affected by:

a. The magnitude of an earthquake;

b. The distance from the source of an earthquake;

c. The type and thickness of geologic materials at the surface; and

d. The subsurface geologic structure.

Settlement and soil liquefaction conditions occur in areas underlain by cohesionless, loose, or soft-saturated soils of low density, typically in association with a shallow ground water table.

C. Mapping.

1. The approximate location and extent of geologically hazardous areas are shown on the adopted critical area maps. The adopted critical area maps include:

a. U.S. Geological Survey landslide hazard, seismic hazard and volcano hazard maps;

b. Department of Natural Resources seismic hazard maps for Western Washington;

c. Department of Natural Resources slope stability maps;

d. Federal Emergency Management Administration flood insurance maps;

e. Washington Department of Natural Resources (DNR) Liquefaction Susceptibility Map of King County; and

f. Locally adopted maps.

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

D. Additional report requirements.

1. For development proposed to be located in erosion or landslide hazard areas, the applicant shall submit a geotechnical report prepared by a qualified professional. A steep slope hazard must also meet the requirements for a critical area report set forth in MMC 16.50.070.

2. The Director may require a geotechnical report for development proposed in a seismic hazard area.

E. Where a geotechnical report is required, a geotechnical assessment of the geological hazards including the following site- and proposal-related information shall be included in either the geotechnical report or the critical areas report:

1. Site and construction plans for the proposal showing:

    a. The type and extent of geologic hazard areas, any other critical areas, and any critical area buffers on, adjacent to, within 200 feet of or that are likely to impact the proposal or be impacted by the proposal;

    b. Proposed development, including the location of existing and proposed structures, fill, storage of materials, and drainage facilities, with dimensions indicating distances to the geologically hazardous area; and

    c. The topography, in two-foot contours, of the project area and all hazard areas addressed in the report;

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

    a. A description of the surface and subsurface geology, hydrology, soils, and vegetation found in the project area and in all hazard areas addressed in the report;

    b. A detailed overview of the field investigations, published data and references; data and conclusions from past assessments of the site; and site specific measurements, tests, investigations, or studies that support the identification of geologically hazardous areas; and

    c. A description of the vulnerability of the site to the relevant geologic hazard;

3. A geotechnical analysis including a detailed description of the project, its relationship to the geologic hazard(s), and its potential impact upon the hazard area, the subject property and affected adjacent properties;

4. Recommendations for the minimum no-disturbance buffer and minimum building setback from any geologic hazard based upon the geotechnical analysis. The Director may assign buffer and building setbacks based on this information. For steep slopes, the minimum buffer widths are specified in subsection (I)(2)(a) of this section;

5. When hazard mitigation is required:

    a. The mitigation plan shall specifically address how the activity maintains or reduces the pre-existing level of risk to the site and adjacent properties on a long-term basis (equal to or exceeding the projected lifespan of the activity or occupation);

    b. Proposed mitigation techniques shall be considered to provide long-term hazard reduction only if they do not require regular maintenance or other actions to maintain their function; and

    c. Mitigation may also be required to avoid any increase in risk above the pre-existing conditions following abandonment of the activity;

6. Where a valid geotechnical report has been prepared and approved by the city within the last five years for a specific site, and where the proposed land use activity and surrounding site conditions are unchanged, said report may be incorporated into the required critical area or geotechnical report

provided the applicant submits a geotechnical assessment detailing any changed environmental conditions associated with the site; and

7. Additional information determined by the Director to be necessary to the review of the proposed activity and the subject hazard.

F. In addition to the geotechnical report requirements specified in subsection (E) of this section, a geotechnical or critical area report (as specified in subsection (D) of this section) for an erosion hazard or landslide hazard shall include the following information:

1. A site plan for the proposal showing the following:

   a. The height of slope, slope gradient, and cross-section of the project area;

   b. The location of springs, seeps, or other surface expressions of ground water on or within 200 feet of the project area or that have potential to be affected by the proposal; and

   c. The location and description of surface water runoff.

2. The geotechnical analysis shall specifically include:

   a. A description of the extent and type of vegetative cover;

   b. An estimate of load capacity including surface and ground water conditions, public and private sewage disposal systems, fills and excavations, and all structural development;

   c. An estimate of slope stability and the effect construction and placement of structures will have on the slope over the estimated life of the structure;

   d. An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a 100-year storm event;

   e. Consideration of the runout hazard of landslide debris and/or the impacts of landslide runout on downslope properties;

   f. A study of slope stability including an analysis of proposed angles of cut and fills and site grading;

   g. Recommendations for building limitations, structural foundations, and an estimate of foundation settlement; and

   h. An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion.

3. For any development proposal on a site containing an erosion hazard area, an erosion and sediment control plan shall be required.

4. A drainage plan for the collection, transport, treatment, discharge and/or recycle of water.

5. Whenever development, including, but not limited to, stairs, pathways, trams and their support structures, retaining walls, and structures, is performed on any erosion, landslide hazard, or steep slope area as defined in this chapter, a mitigation plan shall be prepared.

   a. The plan shall include the location and methods of drainage, surface water management, locations and methods of erosion control, a vegetation management and/or replanting plan, and/or other means for maintaining long-term soil stability.

   b. All disturbed areas shall be revegetated by the property owner.

   c. Revegetation shall include planting of species indigenous to the Northwest, together with a schedule of their maintenance.

6. Monitoring surface waters. If the Director determines that there is a significant risk of damage to downstream receiving waters due to potential erosion from the site, based on the size of the project, the proximity to the receiving waters, or the sensitivity of the receiving waters, the report shall include a plan to monitor the surface water discharge from the site. The monitoring plan shall include a recommended schedule for submitting monitoring reports to the city.

G. Seismic hazard areas shall require geotechnical reporting consistent with subsection (E) of this section and the following:

1. The site map shall show all known and mapped faults within 200 feet of the project area or that have potential to be affected by the proposal.

2. The geotechnical analysis shall include a complete discussion of the potential impacts of seismic activity on the site (for example, forces generated and fault displacement).

H. Geologically hazardous areas—General development standards.

1. Alterations of geologically hazardous areas or associated buffers may only occur for activities that a qualified professional determines:

a. Will not increase the threat of the geologic hazard to adjacent properties beyond predevelopment conditions;

b. Will not adversely impact other critical areas or their buffers;

c. Are designed so that the hazard is eliminated or mitigated to a level equal to or less than predevelopment conditions; and

d. Are certified as safe by a qualified engineer or geologist, licensed in the State of Washington.

2. Essential Public Facilities Prohibited. Essential public facilities shall not be sited within geologically hazardous areas unless there is no other practical alternative.

I. Geologically hazardous areas—Specific development standards.

1. Alterations of an erosion or landslide hazard area and/or buffer may only occur for activities for which a geotechnical report is submitted and certifies that:

a. The development will not increase surface water discharge or sedimentation to adjacent properties beyond predevelopment conditions;

b. The development will not decrease slope stability on adjacent properties; and

c. Such alterations will not adversely impact other critical areas or their buffers.

2. A buffer shall be established from all edges of steep slopes as defined in subsection (B)(2)(f) of this section. The size of the buffer shall be determined by the Director to eliminate or minimize the risk of property damage, death or injury resulting from erosion and landslides caused in whole or part by the development, based upon review of and concurrence with a critical area report prepared by a qualified professional.

a. Minimum buffer.

i. The minimum buffer shall be equal to the height of the slope or 50 feet, whichever is greater.

ii. The buffer may be reduced to a minimum of ten feet when a qualified professional demonstrates to the city's satisfaction that the reduction will adequately protect the proposed development, adjacent developments, and uses and the subject critical area.

iii. The buffer may be increased where the Director determines a larger buffer is necessary to prevent risk of damage to proposed and existing development.

3. Development within erosion or landslide hazard areas and/or their buffers shall be designed to meet the following basic requirements unless it can be demonstrated that an alternative design that deviates from one or more of these standards provides equivalent or greater long-term slope stability while meeting all other provisions of these critical area regulations. The requirement for long-term slope stability shall exclude designs that require periodic maintenance or other actions to maintain their level of function. The basic development design standards are:

   a. The proposed development shall not decrease the factor of safety for landslide occurrences below the limits of 1.5 for static conditions and 1.2 for dynamic conditions. Analysis of dynamic conditions shall be based on a minimum horizontal acceleration as established by the current version of the International Building Code;

   b. Structures and improvements shall minimize alterations to the natural contour of the slope and foundations shall be tiered where possible to conform to existing topography;

   c. Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation;

   d. The proposed development shall not result in greater risk or a need for increased buffers on neighboring properties;

   e. The use of retaining walls that allow the maintenance of existing natural slope area is preferred over graded artificial slopes; and

   f. Development shall be designed to minimize impervious lot coverage.

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

5. Clearing shall be allowed only from May 1st to October 1st of each year; provided, that the city may extend or shorten the dry season on a case-by-case basis depending on actual weather conditions.

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

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

   a. Conveyed via continuous storm pipe downslope to a point where there are no erosion hazards areas downstream from the discharge;

   b. Discharged at flow durations matching predeveloped conditions, with adequate energy dissipation, into existing channels that previously conveyed stormwater runoff in the predeveloped state; or

   c. Dispersed discharge upslope of the steep slope onto a low-gradient undisturbed buffer demonstrated to be adequate to infiltrate all surface and stormwater runoff.

8. The division of land in erosion and landslide hazard areas and associated buffers is subject to the following:

a. Land that is located wholly within erosion or landslide hazard area or its buffer may not be subdivided. Land that is located partially within erosion or landslide hazard area or its buffer may be divided; provided, that each resulting lot has sufficient buildable area outside of, and will not affect, the erosion or landslide hazard or its buffer.

b. Access roads and utilities may be permitted within the erosion or landslide hazard area and associated buffers if the city determines that no other feasible alternative exists.

9. On-site sewage disposal systems, including drain fields and infiltration drainage systems, shall be prohibited within erosion and landslide hazard areas and related buffers.

10. Activities proposed to be located in seismic hazard areas shall meet the standards of subsection (H) of this section.

(Code 1988 § 20.50.200; Ord. No. 924 § 3 (Att. B), 2015)

16.50.100. Fish and wildlife habitat conservation areas.

A. Fish and wildlife habitat conservation areas are areas that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors; and areas with high relative population density or species richness. In the City of Medina, fish and wildlife habitat conservation areas include:

1. Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association.

a. Federally designated endangered and threatened species are those fish and wildlife species identified by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service that are in danger of extinction or are threatened to become endangered. The U.S. Fish and Wildlife Service and the National Marine Fisheries Service should be consulted as necessary for current listing status.

b. State designated endangered, threatened, and sensitive species are those fish and wildlife species native to the State of Washington, identified by the State Department of Fish and Wildlife, that are in danger of extinction, threatened to become endangered, vulnerable, or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats. State designated endangered, threatened, and sensitive species are periodically recorded in WAC 220-610-010 ~~232-12-014~~ (state endangered species), and WAC ~~232-12-011~~ 220-200-100 (state threatened and sensitive species). The State Department of Fish and Wildlife maintains the most current listing and should be consulted as necessary for current listing status.

2. State priority habitats and species. Priority habitats and species are considered to be priorities for conservation and management. Priority species require protective measures for their perpetuation due to their population status; sensitivity to habitat alteration; and/or recreational, commercial, or tribal importance. Priority habitats are those habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element. Priority habitats and species are identified by the State Department of Fish and Wildlife.

3. Habitats and species of local importance. Habitats and species of local importance are those identified by the city as approved by the Medina city council, including those that possess unusual or unique habitat warranting protection.

4. Naturally occurring ponds under 20 acres. Naturally occurring ponds are those ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat, including those artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds. Naturally occurring ponds do not include ponds deliberately designed and created from dry sites, such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds, and landscape amenities, unless such artificial ponds were intentionally created for mitigation.

5. Waters of the state. In the city, waters of the state include lakes, ponds, streams, inland waters, underground waters, and all other surface waters and watercourses within the jurisdiction of the State of Washington.

6. State natural area preserves and natural resource conservation areas. Natural area preserves and natural resource conservation areas are defined, established, and managed by the State Department of Natural Resources.

7. Land found by the Medina city council to be essential for preserving connections between habitat blocks and open spaces.

B. Water typing. Streams shall be designated in accordance with Table 16.50.100(B):

Table 16.50.100(B): Stream Water Type

Water Typing	Designation Criteria
Type 1 Stream	Segments of streams that are used by fish at any life stage at any time of the year including potential habitat likely to be used by fish life, which could reasonably be recovered by restoration or management and includes off-channel habitat.
Type 2 Stream	Perennial non-fish-habitat streams. Perennial streams do not go dry any time during a year of normal rainfall. However, for the purpose of stream typing, Type 2 streams include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow. If the uppermost point of perennial flow cannot be identified with simple, nontechnical observations, then the point of perennial flow should be determined using the best professional judgment of a qualified professional.
Type 3 Stream	Segments of natural waters that are not classified as Type 1 or 2 streams. These are seasonal, non-fish-bearing streams in which surface flow is not present for a significant portion of a year of normal rainfall and are not located downstream from any Type 2 or higher stream.

C. Mapping.

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

    a. Department of Fish and Wildlife Priority Habitat and Species Maps;

b. Anadromous and resident salmonid distribution maps contained in the Habitat Limiting Factors Reports published by the Washington Conservation Commission;

c. Statewide Washington Integrated Fish Distribution (SWIFD) database;

d. The Washington Department of Natural Resources Natural Heritage Program;

e. Department of Natural Resources State Natural Area Preserves and Natural Resource Conservation Area Maps; and

f. City of Medina official habitat maps.

2. These maps are to be used as a guide for the city, project applicants, and/or property owners. They are a reference and do not provide a final critical area designation.

D. Initial fish and wildlife habitat assessment.

1. An applicant proposing development activities and uses located adjacent to or within fish and wildlife habitat conservation areas, which are defined in subsection (A) of this section, may have a written initial fish and wildlife habitat assessment prepared to investigate the presence and extent of regulated site-specific habitat within the project area prior to satisfying the requirements set forth in MMC 16.50.070 (Critical areas report) and this section.

2. The initial fish and wildlife habitat assessment is a preliminary investigation to determine the presence or absence of site-specific critical fish and wildlife habitat within the project area.

3. The initial fish and wildlife habitat assessment shall be prepared by a qualified professional and include the following content:

a. A description of the project area;

b. Information documenting the investigation of the project area;

c. Findings based on the investigation stating whether critical fish and wildlife habitat is present or absent within the project area (the presence of critical fish species alone does not constitute a site-specific critical fish and wildlife habitat); and

d. Any suggested relevant recommendations or best management practices assuring compliance with this chapter.

The qualified professional may consult with the Director prior to or during the preparation of the assessment to determine if more or less information is necessary.

4. Results of the initial fish and wildlife assessment.

a. If the assessment shows the presence of site-specific critical fish and wildlife habitat within the project area, then the requirements set forth in MMC 16.50.070 and this section shall apply.

b. If the assessment shows the absence of site-specific critical fish and wildlife habitat within the project area, then further analysis through the requirements set forth in MMC 16.50.070 and this section shall not be required.

E. Except where subsection (D)(4)(b) of this section applies, in addition to the critical area report requirements prescribed in MMC 16.50.070, a habitat assessment shall be included. A habitat assessment is an investigation of the project area to evaluate the presence or absence of potential critical fish or wildlife habitat. The habitat assessment shall include the following site- and proposal-related information:

1. Identification of any species of local importance, priority species, or endangered, threatened, sensitive or candidate species that has a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species;

2. A discussion of any federal, state, or local special management recommendations, including Department of Fish and Wildlife habitat assessment ~~management~~ recommendations that have been developed for species or habitats located on or adjacent to the project area;

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

4. When appropriate due to the type of habitat or species present or the project area conditions, the Director may also require the habitat assessment ~~management plan~~ to include:

    a. An evaluation by the State Department of Fish and Wildlife, local Native American Indian tribe, or other qualified expert regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or programs, to include any recommendations as appropriate; and/or

    b. Detailed surface and subsurface hydrologic features both on and adjacent to the site.

F. Fish and wildlife habitat conservation areas—General development standards.

1. A habitat conservation area may be altered only if consistent with mitigation sequencing as prescribed in MMC 16.50.060(C) and the proposed alteration of the habitat or the mitigation proposed does not result in a net loss of ecological functions. All new structures and land alterations shall be prohibited within habitat conservation areas, except as allowed in accordance with this chapter.

2. Whenever activities are proposed in or adjacent to a habitat conservation area, except as outlined in subsection (D) of this section, which state or federally endangered or threatened species have a primary association, such area shall be protected through the application of measures in accordance with a critical area report prepared by a qualified professional and approved by the city, and guidance provided by the appropriate state and/or federal agencies.

3. All activities, uses, and alterations proposed to be located in or within the established buffers of water bodies used by anadromous fish shall give special consideration to the preservation and enhancement of anadromous fish and fish habitat.

4. Plant, wildlife, or fish species not indigenous to Western Washington State shall be excluded from habitat conservation areas unless authorized by a state or federal permit or approval.

5. Mitigation sites shall be located to achieve contiguous wildlife habitat corridors in accordance with a mitigation plan that is part of an approved critical area report to minimize the isolating effects of development on habitat areas, so long as mitigation of aquatic habitat is located within the same aquatic ecosystem as the area disturbed.

6. The Director shall condition approvals of activities allowed within or adjacent to a habitat conservation area or its buffers consistent with the mitigation sequencing set forth in MMC 16.50.060(C). Conditions may include, but are not limited to, the following:

    a. Establishment of buffer zones;

    b. Preservation of critically important vegetation;

    c. Limitation of public access to the habitat area, including fencing to deter unauthorized access;

    d. Seasonal restriction of construction activities;

    e. Establishment of a duration and timetable for periodic review of mitigation activities; and

f. Requirement of a performance bond, when necessary, to ensure completion and success of proposed mitigation.

7. Mitigation of alterations to habitat conservation areas shall achieve equivalent or superior ecological functions, and shall include mitigation for adverse impacts upstream or downstream of the development proposal site as appropriate. Mitigation shall address each function affected by the alteration to achieve functional equivalency or improvement on a per-function basis. Mitigation should occur in the same subdrainage basin as the habitat impacted. Mitigation shall follow the priority sequence outlined in state guidance and WDFW policy:

   a. On-site, in-kind: mitigation occurs at or near the impact site and replaces the same ecological functions and habitat types that were lost;

   b. Off-site, in-kind: mitigation occurs at a different location but still replaces the same ecological functions and habitat types that were lost;

   c. On-site, out-of-kind: mitigation occurs at or near the impact site but replaces different ecological functions or habitat types than those lost;

   d. Off-site, out-of-kind: mitigation occurs at a different location and replaces different ecological functions or habitat types than those lost.

8. Any approval of alterations or impacts to a habitat conservation area shall be supported by best available science.

9. On-site sewage disposal systems, including drain fields and infiltration drainage systems, shall be prohibited within fish and wildlife habitat conservation areas and related buffers.

G. Fish and wildlife habitat conservation area—Buffers.

1. The Director shall require the establishment of buffer areas for activities in, or adjacent to, habitat conservation areas when needed to protect habitat conservation areas.

   a. Buffers shall consist of an undisturbed area of native vegetation, or areas identified for restoration, established to protect the integrity, functions and values of the affected habitat.

   b. Required buffer widths shall reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby.

   c. Setbacks for protection of Lake Washington are provided in MMC 16.63.030 and buffers for protection of Lake Washington tributaries within shoreline jurisdiction are established in MMC 16.67.080.

2. The following standard buffers for streams located outside of shoreline jurisdiction shall be established, adjacent to streams, measured outward on the horizontal plane from the ordinary high water mark or from the top of bank if the ordinary high water mark cannot be identified:

Table 16.50.100(G)(2): Stream Buffers

Water Type	Standard Buffer Width	~~Minimum Buffer Width with Enhancement~~
Type 1 Stream	150feet	~~50 feet~~
Type 2 Stream	100feet	~~37.5 feet~~
Type 3 Stream	100feet	~~25 feet~~

3. Reduction of stream buffer widths. The director may allow the standard buffer width to be reduced by up to the listed minimum buffer width in Table 16.50.100(G)(2) provided:

a. A critical area report and mitigation plan approved by the city, and the best available science applied on a case-by-case basis, determine that a smaller area is adequate to protect the habitat functions and values based on site-specific characteristics and the proposal will result in a net improvement of stream and buffer functions;

b. A plan for mitigating buffer-reduction impacts is prepared using selected incentive-based mitigation options in Table 16.50.100(G)(3);

c. Where a substantial portion of the remaining buffer is degraded, revegetation with native plants in the degraded portions shall be included in the remaining buffer area;

d. A five-year monitoring and maintenance plan shall be included;

e. Incentive options may be accumulatively applied to allow a reduction allowance not to exceed 50 percent of the standard buffer width and Table 16.50.100(G)(2); and

f. Where multiple options for an action are prescribed in the Table 16.50.100(G)(3), only one option under that action may be applied.

Table 16.50.100(G)(3): Stream Buffer Reduction Incentive Options

Description of Action	Options	Reduction Allowance
Removal of impervious surface	Reduce impervious surfaces within the to-be-remaining buffer area by at least 50 percent	Up to 10 percentage points
	Remove all impervious surface where the to-be-remaining buffer is presently more than 50 percent impervious	Up to 20 percentage points
Installation of biofiltration/infiltration mechanisms	Install bioswales, created and/or enhanced wetlands, or ponds supplemental to existing storm drainage and water quality requirements	Up to 20 percentage points
Removal of invasive, non-native vegetation	Remove and employ extended (minimum five-year) monitoring and continued-removal maintenance of relatively dense stands of invasive, nonnative vegetation from significant portions of the remaining buffer area	Up to 10 percentage points

~~In-stream habitat enhancement~~	~~Placement of log structure, bioengineered bank stabilization, or culvert removal~~	~~Up to 20 percentage points~~
	~~Improve fish passage and/or creation of side channel or backwater areas~~	~~Up to 25 percentage points~~
~~Installation of oil-water separators~~	~~If not required by other provisions of the Medina Municipal Code, install oil-water separator for stormwater quality control~~	~~Up to 10 percentage points~~
~~Use of pervious materials~~	~~Use pervious materials for driveway/road construction~~	~~Up to 10 percentage points~~
~~Off-site restoration, if no on-site area is possible~~	~~Restoration is provided at a 2:1 ratio or greater~~	~~Up to 10 percentage points~~
	~~Restoration is provided at a 4:1 ratio or greater~~	~~Up to 20 percentage points~~
~~Remove toxic material~~	~~Remove significant refuse or sources of toxic material~~	~~Up to 10 percentage points~~

4. The buffer widths in the table above assume the buffer is vegetated with a native plant community appropriate for the ecoregion. To be considered fully functioning, a stream buffer must contain:
   a. An average of 80% native vegetation cover, with no more than 10% noxious weed cover; and
   b. A native plant community that includes tree, shrub, and groundcover strata in proportions that mimic native forest for the region.
5. If the existing buffer does not meet vegetative buffer standards above, the buffer must be densely planted to create the appropriate native plant community through the implementation of a mitigation plan per MMC 16.50.060.D or be widened by 33 percent to ensure that the buffer provides adequate functions to protect the stream.
6. Averaging of Stream Buffer Widths. The Director may allow the standard stream buffer width to be averaged in accordance with a critical area report if:
   a. The proposal will result in a net improvement of stream, habitat and buffer function;
   b. The averaged buffer must meet the vegetative standards described in subsections 4. If the existing buffer does not meet these standards, the buffer must be densely planted to create the appropriate native plant community through the implementation of a mitigation plan per MMC 16.50.060.D;

c. The total area contained in the buffer of each stream on the development proposal site is not decreased; and

d. The standard stream buffer width is not reduced by more than 25 percent in any one location.

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

H. Permitted activities in stream buffers. The following specific activities may be permitted within a stream, pond, lake, water of the state, or associated buffers when the activity complies with the provisions set forth in this title, and subject to the following standards:

1. *Clearing and grading.* When clearing and grading is permitted as part of an authorized activity or as otherwise allowed in these standards, the following shall apply:

a. Grading is allowed only during the dry season, which is typically regarded as beginning on May 1st and ending on October 1st of each year; provided, that the City of Medina may extend or shorten the dry season on a case-by-case basis, based on actual weather conditions.

b. The soil duff layer in ungraded areas shall remain undisturbed to the maximum extent possible. Where feasible, any soil disturbed shall be redistributed to other nonwetland and stream areas of the project site.

c. The moisture-holding capacity of the topsoil layer shall be maintained by minimizing soil compaction or reestablishing natural soil structure and infiltrative capacity on all areas of the project area not covered by impervious surfaces.

d. Erosion and sediment control shall be provided.

2. *Streambank stabilization.* Streambank stabilization to protect new structures from future channel migration is not permitted except when such stabilization is achieved through bioengineering or soft-armoring techniques in accordance with an approved critical area report.

3. *Roads, trails, bridges, and rights-of-way.* Construction of trails, roadways, and minor road bridging, less than or equal to 30 feet wide, may be permitted in accordance with an approved critical area report subject to the following standards:

a. There is no other feasible alternative route with less impact on the environment;

b. The crossing minimizes interruption of downstream movement of wood and gravel;

c. Mitigation for impacts is provided pursuant to an approved mitigation plan and critical area report;

d. Road bridges are designed according to the Department of Fish and Wildlife Water Crossing Design Guidelines, May 2013 or ~~as amended, or the~~ National Marine Fisheries Service Anadromous Salmonid Passage Facility Design, February 2008, or the Guidelines for Salmonid Passage at Stream Crossings in Oregon, Washington, and Idaho (June 2022) ~~or as amended~~; and

e. Trails and associated viewing platforms shall not be made of continuous impervious materials.

4. *Utility facilities.* New utility lines and facilities may be permitted to cross watercourses in accordance with an approved critical area report if they comply with the following standards:

   a. Fish and wildlife habitat areas shall be avoided to the maximum extent feasible;

   b. Installation shall be accomplished by boring beneath the scour depth and hyporheic zone of the water body and channel migration zone, where feasible;

   c. The utilities shall cross at an angle greater than 60 degrees to the centerline of the channel in streams or perpendicular to the channel centerline whenever boring under the channel is not feasible;

   d. Crossings shall be contained within the footprint of an existing road or utility crossing where possible;

   e. The utility route shall avoid paralleling the stream or following a down-valley course near the channel; and

   f. The utility installation shall not increase or decrease the natural rate of channel migration.

5. *Stormwater conveyance facilities.* Conveyance structures may be permitted in accordance with an approved critical area report subject to the following standards:

   a. No other feasible alternatives with less impact exist;

   b. Mitigation for impacts is provided; and

   c. Vegetation shall be maintained and, if necessary, added adjacent to all open channels and ponds in order to retard erosion, filter out sediments, and shade the water.

I. Signs and fencing.

1. The outer perimeter of the habitat conservation area or buffer and the limits of those areas to be disturbed pursuant to an approved permit or authorization shall be marked in the field in such a way as to ensure that no unauthorized disturbance will occur, and verified by the Director prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction, and shall not be removed until permanent signs, if required, are in place.

2. As a condition of any permit or authorization issued pursuant to this chapter, the Director may require an applicant to install permanent signs along the boundary of a habitat conservation area or buffer. Permanent signs shall be made of a metal face and attached to a metal post, or another material of equal durability. Signs must be posted at an interval of one per lot or every 50 feet, whichever is less, and must be maintained by the property owner in perpetuity. The sign shall be worded as follows or with alternative language approved by the Director ~~city manager~~ or designee:

   Habitat Conservation Area
   Do Not Disturb
   Contact City of Medina Regarding Uses and Restriction
   Fencing

3. The Director ~~city manager~~ or designee may condition any permit or authorization issued pursuant to this chapter to require the applicant to install a permanent fence at the edge of the habitat conservation area or buffer, when fencing may prevent future impacts to the habitat conservation area.

4. Fencing installed as part of a proposed activity or as required in this subsection shall be designed so as to minimize interference with species migration, including fish runs, and shall be constructed in a manner that minimizes habitat impacts.

J. The subdivision and short subdivision of land in fish and wildlife habitat conservation areas and associated buffers is subject to the following:

1. Land that is located wholly within a habitat conservation area or its buffer may not be subdivided.

2. Land that is located partially within a habitat conservation area or its buffer may be divided; provided, that an accessible and contiguous portion of each new lot is located outside of the habitat conservation area or its buffer and meets the city's minimum lot size requirements.

3. Access roads and utilities serving the proposed lots may be permitted within the habitat conservation area and associated buffers only if the city determines that no other feasible alternative exists and when consistent with these critical areas regulations.

(Code 1988 § 20.50.300; Ord. No. 924 § 3 (Att. B), 2015)