

## Chapter 18.08 CRITICAL AREAS

### 18.08.010 Title, purpose and intent.

- A. Title. This chapter shall be known and may be cited as the "Critical Areas Ordinance [\(CAO\)](#)."
- B. Purpose. The purpose of this chapter is to protect the functions and values of critical areas, which include the following areas and ecosystems: (a) wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas. This is achieved by implementing the overall critical areas goals, and the specific goals and policies for critical areas using best available science, [in accordance with WAC 365-195, Part Nine \(Best Available Science\)](#). ~~At this time, fish and wildlife habitat, potential slide hazard areas, and critical aquifer recharge areas are the only identified critical areas identified in the Millwood comprehensive plan, Chapter 6 Land Use.~~ The specific ~~goals~~ [priorities](#) for fish and wildlife habitat, potential slide hazard areas ([geologically hazardous areas](#)), and critical aquifer recharge areas are listed in this section. [Refer to Section 18.14.100 of the Millwood Municipal Code for regulation of frequently flooded areas, wetlands, and upland buffers for critical areas within shoreline jurisdiction. Wetlands in the City of Millwood are generally found only within shoreline jurisdiction; however, if wetlands are found outside of Millwood's shoreline, they would be regulated through the applicable provisions found in Section. MMC 18.14.100.](#) Furthermore, it is expressly the purpose of this chapter to protect the health, safety and welfare of the general public.
1. Fish and Wildlife Habitat Conservation Areas.
    - a. Conserve fish and wildlife habitat areas for the management and maintenance of fish and wildlife resources as the city recognizes the role these areas play in the local ecosystem.
    - b. Conserve fish and wildlife habitat areas for public health, safety and well-being and for the aesthetic value they bring the community.
    - c. It is also important to ensure that priority fish and wildlife species, as identified by the Washington Department of Fish and Wildlife, and species of local importance, do not become increasingly imperiled due to land use changes, habitat alteration, and other human activities, [including conservation or protection measures necessary to preserve or enhance anadromous fisheries, if they are restored to the Spokane River within the Millwood area.](#)
  2. Potential Slide Hazard Areas / [Geologically Hazardous Areas](#).
    - a. Development should be restricted or discouraged in potential slide hazard areas ([geologically hazardous areas](#)), unless it can be demonstrated through special review that a hazard area can be developed consistent with public health and safety. Development permits may be conditioned to mitigate certain hazards.
    - b. Potential slide hazard areas ([geologically hazardous areas](#)) may be used as open space for recreational or wildlife habitat and other uses as appropriate.
  3. Critical Aquifer Recharge Areas.
    - a. Protect the city's drinking water source by protecting groundwater quality from development impacts. Prevent degradation of groundwater quality for Millwood and Spokane County.
    - b. Have an adequate amount of area available on each parcel to allow stormwater to properly filter and drain and require stormwater management on site.

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- c. Strictly regulate uses, and if necessary, restrict the use and storage of fertilizers or chemicals on site.
4. General Purpose of this Chapter. In addition to the purpose as set forth in subsection B of this section, the following are general purposes of this chapter:
    - a. To protect the public health, safety and welfare by preserving, protecting, restoring and managing, through the regulation of development and other activities, within fish and wildlife habitat conservation areas, potential slide hazard areas ([geologically hazardous areas](#)), and critical aquifer recharge areas;
    - b. To recognize fish and wildlife habitat conservation areas, ~~and~~ potential slide hazard areas ([geologically hazardous areas](#)), and critical aquifer recharge areas as important natural resources which provide significant environmental functions and values including: vital importance to critical fish and wildlife habitat, surface and ground water quality, aquifer recharge, shoreline anchorage and erosion control, scientific research and education, open space, aesthetic values, historic and cultural preservation, passive recreation and contribute to quality of life currently enjoyed by citizens of Millwood;
    - c. To maintain consistency with state and federal protective measures;
    - d. To avoid duplication and over-regulation by limiting regulatory applicability to those developments and activities with significant impacts;
    - e. To minimize impacts of regulation on private property rights;
    - f. To identify and protect fish and wildlife habitat conservation areas, potential slide hazard areas ([geologically hazardous areas](#)), and critical aquifer recharge areas without violating any citizen's constitutional rights, [and to restore habitats to a highly functioning condition wherever possible](#);
    - g. To alert appraisers, assessors, owners and potential buyer or lessees of property to the development limitation within fish and wildlife habitat conservation areas and potential slide hazard areas ([geologically hazardous areas](#));
    - h. To prevent degradation of critical aquifer recharge areas.
    - [i. To preserve the existing functions and values of critical areas during development and if avoidance is not possible, then compensatory mitigation will be required to achieve a no net loss of the functions and values of the ecosystem that includes the impacted or lost critical areas.](#)
    - [j. To utilize the expertise of agencies such as Washington Department of Fish and Wildlife \(WDFW\) regional habitat biologists; Washington Department of Ecology \(Ecology\) regional wetlands specialists, flood program managers, and groundwater protection specialists; Washington Department of Natural Resources \(WDNR\) geology staff and aquatic program regional managers; and Washington Department of Health Office of Drinking Water staff, and other subject matter experts concerning best available science and current management recommendations for priority habitats and species, including conservation or protection measures necessary to preserve or enhance anadromous fisheries.](#)

C. Intent.

1. The intent of these regulations is to avoid, or in appropriate circumstances, to minimize, rectify, reduce or compensate for impacts arising from land development and other activities affecting fish and wildlife habitat conservation areas, potential slide hazard areas ([geologically hazardous areas](#)), and critical aquifer recharge areas; and to maintain and enhance the biological and physical functions and values of these areas.

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2. It is recognized that land development will not always be compatible with preservation of fish and wildlife and their habitats. Some wildlife will be eliminated as development occurs. It is the intent of these regulations to preserve wildlife when possible through thoughtful planning and consideration of wildlife needs.
  3. It is the intent of these regulations to allow development in potential slide hazard areas [\(geologically hazardous areas\)](#) only when hazards can be mitigated to protect the public health, safety and general welfare.
  4. In addition, the intent of these regulations is to recognize that property rights and public services are an essential component of our legal and economic environment. Where such rights and public services are seriously compromised by the regulations contained in this chapter, impacts may be permitted provided there is appropriate mitigation.

(Ord. 350 (part), 2005)

(Ord. No. 390, § 1, 12-7-2009)

### 18.08.020 Definitions.

For the purposes of this chapter, the following definitions shall apply:

**"Activity or activities"** See "regulated activity."

**"Agricultural land"** is land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish in upland hatcheries, or livestock, and that has long-term commercial significance for agricultural production. These lands are referred to in this chapter as agricultural resource lands to distinguish between formally designated lands, and other lands used for agricultural purposes. (WAC 365-190-030).

**"Anadromous Fish"** refers to those fish that migrate from freshwater rivers to the ocean and back to spawn in their natal streams, including the five species of Northwest salmon, steelhead, and certain bull trout. *(Due to construction of dams, the Spokane River lost its anadromous fish; however salmon restoration efforts have been underway since 2015.)*

**"Applicant"** means a person who files an application for permit under this chapter and who is either the owner of the land on which that proposed regulated activity would be located, or is the authorized agent of the owner.

**"Best Available Science (BAS)"** means information produced through a valid scientific process that WDFW or another local, state or federal agency has determined represents the best available science consistent with criteria set out in WAC 365-195-900 through -925. WDFW's PHS information is considered a source of BAS. (WDFW Vol 2)

**"Biosolids"** means municipal sewage sludge that is a primary organic, semisolid product resulting from the wastewater treatment process that can be beneficially recycled and meets all applicable requirements under WAC Chapter 173-308. Biosolids includes materials derived from biosolids, and septic tank sludge, also known as septage, that can be beneficially recycled and meets all applicable requirements under WAC Chapter 173-308. For the purpose of this chapter, semisolid products include biosolids or products derived from biosolids ranging in character from mostly liquid to fully dried solids.

**"Buffer area"** means a designated area along the perimeter of a fish and wildlife habitat or other critical area which is regulated to minimize impacts of adjacent activities and uses from intruding into the aquatic resource.

**"Building envelope"** means an area where regulated activities and uses are confined.

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**"Council"** means the Millwood city council.

**"Critical aquifer recharge areas"** means [areas with a critical recharging effect on aquifers used for potable water, including areas where there is an aquifer that is a source of drinking water that is vulnerable to contamination that would affect the potability of the water, or is susceptible to reduced recharge.](#) (WAC 365-190-030).

**"Critical areas"** include the following areas and ecosystems [\(WAC 365-190-030\)](#):

1. Wetlands,
2. Areas with a critical recharging effect on aquifers used for potable water [\(Critical aquifer recharge areas\)](#);
3. Fish and wildlife habitat conservation areas;
4. Frequently flooded areas; and
5. Geologically hazardous areas [\(also referred to as Potential Slide Hazard Areas\)](#).

Identified critical areas are further defined in the Millwood comprehensive plan.

**"Critical material (critical material list)"** means a substance present in sufficient quantity that its accidental or intentional release would result in the impairment of one or more of the beneficial uses of aquifer water. Current beneficial uses of aquifer water include, but are not limited to, domestic and industrial water supply, agricultural irrigation, stock watering and fish raising. The critical materials list is set forth in Chapter 3.15, as amended, of the Spokane County Code (adopted by reference). The list includes the names of specific chemicals and classes of chemicals which, based on current criteria and standards, are known to affect the beneficial uses of water.

**"Critical materials handbook"** means a document prepared specifically to assist in the administration of this chapter, containing examples of best management practices, which may be employed to meet the performance standards of this chapter, as associated with critical materials.

**"Critical materials use activity"** means an activity or land use which has been determined to use, transport or store a critical material.

**"Dedication"** means conveyance of land to the city or other not-for-profit entity by deed or other instrument of conveyance.

**"Department"** means the planning department of the city of Millwood.

**"Developable area"** means land outside of any restricted area on a particular piece of property.

**"Development"** means any construction or expansion of a building, structure, or use; any change in use of a building or structure or changes in the use of land that require any development permit from the city of Millwood.

**"Director"** means the official of the city of Millwood designated to carry out planning functions or his/her authorized designee.

**"Documented habitat"** means habitat where endangered, threatened, sensitive species or species of local importance have been "documented" or are known to exist as confirmed by state or federal agencies.

**"Ecosystem"** means a [spatially explicit unit of the Earth that includes all of the organisms, along with all components of the abiotic environment. Ecosystems have composition, structure, and functions. \(WDFW Vol 1\).dynamic and interrelating complex of plant and animal communities and their associated environment.](#)

**"Enforcement authority"** means the city of Millwood departments as applicable.

**"Enhancement"** is the [manipulation of the physical, chemical, or biological characteristics of habitat to heighten, intensify, or improve a specific ecosystem function\(s\). Enhancement results in the gain of selected](#)

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[habitat function\(s\) but may also lead to a decline in other ecosystem function\(s\). Enhancement does not result in a gain in habitat area. \(WAC 173-700-104\).](#)

**"Erosion"** means the wearing away of the ground surface as a result of mass wasting or the movement of wind, water, soil and/or ice.

["Erosion hazard areas" are those areas containing soils which, according to the United States Department of Agriculture Natural Resources Conservation Service Soil Survey Program, may experience significant erosion. Erosion hazard areas also include coastal erosion-prone areas and channel migration zones. \(WAC 365-190-030\)](#)

**"Exotic"** means any species of plants or animals that are foreign to the planning area.

**"Extraordinary hardship"** means that the strict application of the provisions of this chapter and/or rules adopted to implement this chapter would prevent all reasonable use of the property.

**"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. Counties and cities may also designate locally important habitats and species. \(WAC 365-190-030\). Fish and wildlife habitat conservation areas do not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company. defined in WAC 365-190-080 \(5\) as "fish and wildlife habitat conservation means land management for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created. This does not mean maintaining all individuals of all species at all times, but it does mean cooperative and coordinated land use planning is critically important among counties and cities in a region."](#)

**"Fish and wildlife habitat conservation areas"** include:

1. Areas with which primarily endangered, threatened and sensitive species have a primary association;
2. Habitats and species of local importance;
3. Waters of the state;
4. Rivers planted with game fish by a governmental or tribal entity;
5. State natural area preserves and natural resources conservation areas;
6. Wildlife corridors and landscape linkages;
7. Candidate and monitored species;
8. Priority habitats and areas in which priority species have a primary association as identified by the department of fish and wildlife (WDFW) in the priority habitat and species lists; priority habitats as identified by WDFW are areas with one or more of the following attributes: comparatively high wildlife density, high wildlife species richness, significant wildlife seasonal ranges, wildlife travel corridors, limited availability and/or highly vulnerable habitat. Priority habitats in Millwood include riparian areas and urban natural open space.

["Forest land" is land primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, and that has long-term commercial significance. These lands are referred to in this chapter as forest resource lands to distinguish between formally designated lands, and other lands used for forestry purposes. \(WAC 365-190-030\).](#)

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**"Frequently flooded areas"** are lands in the flood plain subject to at least a one percent or greater chance of flooding in any given year, or within areas subject to flooding due to high groundwater. These areas include, but are not limited to, streams, rivers, lakes, coastal areas, wetlands, and areas where high groundwater forms ponds on the ground surface. (WAC 365-190-030). Refer to Section 18.12.200 - Definitions of the City's Shoreline Master Program.

**"Geologically hazardous areas"** are areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to siting commercial, residential, or industrial development consistent with public health or safety concerns. (RCW 36.70A.030 & WAC 365-190-030).

**"Grading"** means excavation or fill or any combination thereof, including but not limited to the establishment of a grade following the demolition of a structure or preparation of a site for construction or development.

**"Hearing body"** means the individual, committee, or agency designated by the council to conduct public hearings and render decisions on subdivisions, amendments, variance permits, conditional uses, appeals and other matters as set forth in the Millwood ~~zoning code~~ Municipal Code.

**"Impervious surface"** is a surface that resists or prevents water infiltration, e.g., roofs of houses, roadways. (WDFW Vol 2).

**"Landscape linkages"** mean a movement corridor in which the complete range of community and ecosystem processes continue to operate through time. Plants and small animals are able to move between larger landscapes over a period of generations.

**"Landslide hazard areas"** are areas at risk of mass movement due to a combination of geologic, topographic, and hydrologic factors. (WAC 365-190-030).

**"Long-term commercial significance"** includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of land. Long-term commercial significance means the land is capable of producing the specified natural resources at commercially sustainable levels for at least the 20-year planning period, if adequately conserved. Designated mineral resource lands of long-term commercial significance may have alternative post-mining land uses, as provided by the Surface Mining Reclamation Act, comprehensive plan and development regulations, or other laws. (WAC 365-190-030).

**"Maintenance."** See definition of "repair or maintenance."

**"Mitigation"** means the use of any or all of the following actions listed in descending order of preference (WAC 197-11-768):

1. Avoiding the impact altogether by not taking a certain action or parts of an action;
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
3. Rectifying the impact by repairing, rehabilitating or restoring the affected environment;
4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
5. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; or
6. Monitoring the impact and the compensation project and taking appropriate corrective measures. Mitigation may include a combination of the above measures.

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**"Native vegetation"** means vegetation on a site or plant species which are indigenous to the area in question; or if the site has been cleared, species of a size and type that were on the site or reasonably could have been expected to have been found on the site at the time it was cleared.

**"Natural resource lands"** means [agricultural, forest and mineral resource lands which have long-term commercial significance. \(WAC 365-190-030\).](#)

**"Nonconforming development"** means a use or structure which was lawfully constructed or established prior to the effective date of the ordinance codified in this chapter or amendments thereto, but which does not conform to present regulations or standards contained in this chapter.

**"No net loss"** means [standards that are intended to limit the impacts from new development and other land uses by adopting a mitigation hierarchy to avoid, minimize, remediate, and offset negative impacts on ecosystems. \(WDFW 2024\).](#)

**"Noxious weeds"** mean those plants which are nonnative, highly destructive and competitive as defined by RCW 17.10, as now or hereafter amended.

~~"Ordinary high water mark" means that mark on streams, lakes or water bodies that will be found by examining the bed and banks and ascertaining where the presence and action of waters are common and usual, and long continued in normal years, as to mark on the soil a character distinct from that of the abutting upland in respect to vegetation.~~

~~"Ordinary High-Water Mark (OHWM)" means that mark which is found by examining the bed and banks of a water body and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years that the soils and vegetation have a character distinct from that of the abutting upland area. It also can also be established by fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas. Where the ordinary high-water mark cannot be found, it shall be the line of mean high water in areas adjoining fresh water. (WAC 173-22-030(11))~~

**"Owner"** means any person having title to, a substantial beneficial proprietary interest in, or control of a building or property, including but not limited to a lessee, guardian, receiver or trustee, and the owner's duly authorized agent.

**"Person"** means a natural person, his/her heirs, executors, administrators or assignees, or a firm, partnership or corporation and its or their successors and assignees, or a governmental entity.

**"Person aggrieved"** means a corporation, company, association, society, firm, partnership or joint stock company, as well as an individual, a state, and all political subdivisions of a state or any agency or instrumentality thereof, not in agreement with a decision made by the department or hearing body.

**"Placeholder"** means an area designated by the Washington State Department of Health to hold the place of a wellhead protection area for a well until completion of the wellhead protection plan.

**"Pollution"** means such contamination, or other alteration of the physical, chemical or biological properties of wetlands, or such discharge of any liquid, gaseous, solid, radioactive or other substance into wetlands as will or is likely to cause a nuisance or render such wetlands harmful, detrimental or injurious to the public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses, or to livestock, wildlife, fish, native vegetation or other aquatic life.

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

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**"Practicable alternative"** means an alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, and have less impacts to wetlands. It may involve using an alternative site in the general region that is available to the applicant and may feasibly be used to accomplish the project.

**"Primary drainage basin"** means the basin of the stream or tributary within which a project is proposed, not including basins of major tributaries.

**"Priority habitats and species"** mean a fish or wildlife habitat or species that has been identified by the Washington State Department of Fish and Wildlife in the priority habitat and species program or by the city of Millwood as a species of local importance.

**"Public facilities"** include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools. (WAC 365-190-030).

**"Publicly owned treatment works (POTW)"** means a treatment works treating domestic sewage that is owned by a municipality, a county, the state of Washington, or the federal government.

**"Public services"** include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services. (WAC 365-190-030).

**"Qualified biologist"** means the holder of a four-year degree in biology with an emphasis in fish and wildlife biology from an accredited university and at least two years field experience evaluating land use impacts on fish and wildlife species and their habitats.

**"Qualified erosion or landslide specialist"** means an individual or team that has both the academic qualifications and field experience to implement the provisions of this chapter.

**"Qualified geologist"** means a Washington state licensed geologist or hydrogeologist, or a geologist from another state with a license recognized by the state of Washington.

**"Qualified wetlands specialist"** means the holder of SWS (Society of Wetland Scientists) certification or has the equivalent in academic qualifications and field experience for making competent wetlands delineations and reports and recommendations necessary to implement the provisions of this chapter.

**"Repair or maintenance repair"** means to restore a development to its original condition within a reasonable period after decay or partial destruction, except where repair involves total replacement which is not common practice or causes substantial adverse effects to the resource or environment; maintenance means those usual acts to prevent a decline, lapse or cessation from a lawfully established condition.

**"Residential development"** means only single-family, two-family, multifamily, manufactured and mobile home, community residential facility, and community treatment facility as defined in the Millwood zoning code, or as amended.

**"Riparian"** means the area adjacent to a water body (i.e., stream, river, lake, pond, bay, sea, ocean). Riparian areas are sometimes referred to by different names: riparian ecosystems, riparian habitats, riparian corridors, or riparian zones (WDFW Vol 1).

**"Riparian buffer"** refers to its purpose, which is to reduce or prevent adverse impacts to water quality, fisheries, and aquatic biodiversity from human activities occurring upslope of the buffer. Riparian buffers may also be called a riparian management zone (WDFW Vol 1).

**"Riparian ecosystem"** means transitional areas between terrestrial and aquatic ecosystems distinguished by gradients in biophysical conditions, ecological processes, and biota. They are areas through which surface and subsurface hydrology connect waterbodies with their adjacent uplands. They include those portions of terrestrial ecosystems that significantly influence exchanges of energy and matter with aquatic ecosystems. (WDFW Vol 1)

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**"Riparian management zone (RMZ)"** means the area that has the potential to provide full riparian functions. In many forested regions of the state, this area occurs within one 200-year site-potential tree height measured from the edge of the stream channel. In situations where a CMZ is present, this occurs within one site potential tree height measured from the edges of the CMZ. In non-forest zones the RMZ is defined by the greater of the outermost point of the riparian vegetative community or the pollution removal function, at 100-feet (WDFW Vol 2).

**"Riparian wetlands"** mean the transitional area between aquatic and upland ecosystems that is identified by the presence of vegetation that requires or tolerates free or unbound water or conditions that are more moist than normally found in the area.

**"Serviceable"** means presently usable.

**"Site"** means any lot or parcel of land or contiguous combination thereof, where activities are proposed, performed or permitted.

**"Site-potential tree height (SPTH)"** is the average maximum height of the tallest dominant trees for a given age and site class. Full riparian function occurs when trees reach their SPTH at age 200 (SPTH200; WDFW Vol 1 ).

**"Species of local importance"** are those species that are of local concern due to their population status or their sensitivity to habitat alteration or that are game species. (WAC 365-190-030).

**"Subject property"** means the site where an activity requiring a permit or approval under this ordinance will occur.

**"Urban impact area"** means that existing area which is affected by urban-type growth.

**"Urban growth"** refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of such land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources. Urban growth typically requires urban governmental services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth. (WAC 365-190-030).

**"Utilities"** mean enterprises or facilities serving the public by means of an integrated system of collection, transmission, distribution, and processing facilities through more or less permanent physical connections between the plant of the serving entity and the premises of the customer. Included are systems for the delivery of natural gas, electricity, telecommunications services, and water, and for the disposal of sewage.

**"Watercourse," "river" or "stream"** means any portion of a stream or river channel, bed, bank, or bottom waterward of the ordinary high water line of waters of the state. Watercourse also means areas in which fish may spawn, reside, or pass, and tributary waters with defined bed or banks that influence the quality of habitat downstream. Watercourse also means waters that flow intermittently or that fluctuate in level during the year, and the term applies to the entire bed of such waters whether or not the water is at peak level. A watercourse includes all surface-water-connected wetlands that provide or maintain habitat that supports fish life. This definition does not include irrigation ditches, canals, stormwater treatment and conveyance systems, or other entirely artificial watercourses, except where they exist in a natural watercourse that has been altered by humans. (WAC 220-660-030).

**"Water dependent"** means a use which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations; such as, but not limited to bridges, marinas, dams for domestic/industrial water supply, flood control, and/or hydroelectric production; water diversion structures and facilities for water supply, irrigation and/or fisheries enhancement; flood water and drainage pumping plants and facilities; hydroelectric generating facilities and appurtenant structures; structural and nonstructural flood damage reduction facilities, and stream bank stabilization structures and practices.

**"Wellhead protection area (WHPA)"** means protective areas associated with public drinking water sources established by water systems and approved or assigned by the state department of health. (WAC 365-190-030).

**"Wetland" or "wetlands"** means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas created to mitigate conversion of wetlands. (RCW 36.70A.030 & WAC 365-190-030). Refer to Section 18.12.200 - Definitions of the City's Shoreline Master Program and regulations in Section 18.14.100.

**"Wildlife corridor"** means a landscape feature that facilitates the biologically effective transport of animals between larger patches of habitat dedicated to conservation functions. Such corridors may facilitate several kinds of traffic, including frequent foraging movements, seasonal migrations, or the once in a lifetime dispersion of juvenile animals. These are transitional habitats and need not contain all of habitat elements required for the long-term survival or reproduction of its migrants.

(Ord. 350 (part), 2005)

(Ord. No. 390, § 2, 12-7-2009)

**18.08.030 General provisions.**

- A. Applicability. This chapter shall apply to all incorporated areas of the city of Millwood. No action shall be undertaken by any person that impacts critical aquifer recharge areas or results in any alteration of a fish and wildlife habitat or potential slide hazard area ([geologically hazardous areas](#)) as defined in this chapter, except in conformance with this chapter. Uses and activities listed in Table 18.08.030A of this section are allowed in fish and wildlife habitat areas, potential slide hazard areas ([geologically hazardous areas](#)) and their buffer areas only if: (1) the use or activity is in compliance with the requirements of this chapter and (2) the use or activity is in compliance with all other applicable provisions of the Millwood Municipal Code. Uses and activities listed in Table 18.08.075B of this chapter shall conform to requirements in this chapter for protecting critical aquifer recharge areas. [Critical areas within the shoreline management area shall also comply with MMC 18.14.100, and other applicable portions of MMC Chapter 18.12, 18.14, and 18.16, including no net loss and compensatory mitigation requirements.](#)

**Table 18.08.030A**

Uses and Activities Permitted Without Millwood Review	Habitats	Potential Slide Hazard Areas ( <a href="#">Geologically Hazardous Areas</a> )
<a href="#">Aquatic vegetation management</a>	<a href="#">P</a>	<a href="#">NA</a>
Passive recreation, scientific research	P	P
Conservation activities	P	P
Harvesting of wild crops	P	P
Noxious weed control	P	P
Open space, natural area	P	P

Road repair and maintenance	P	P
Signs (interpretive markers)	P	P
Utilities repair maintenance	P	P
Diseased vegetation removal	P	P
Water well pump house, wildlife blind, nesting structure	P	P
Single-family residence and accessory structures and decks	L	L
Single-family private access road/driveway	L	L
Building construction, public, commercial, industrial, recreational	L	L
Excavation, filling, grading <30 cubic yards	L	P
Excavation, filling, grading >30 cubic yards	L	L
Dredging	L	NA
Road, expansion of existing corridor road or bridge	L	L
Road, new public, serving more than 1 residence	L	L
<del>Pedestrian</del> Equestrian/pedestrian/bike trail	L	P
<del>Aquatic vegetation management</del>	<del>P</del>	<del>NA</del>
Stormwater detention/ disposal facility	L	L
Utility facility	L	L
Lines utility transmission	L	L
Radio/TV towers	L	L
Parks, camps	L	L
Golf course	L	L

P = Permitted without Millwood [CAO](#) review under this chapter.

L = Limited Uses. These uses are allowed provided they comply with the standards of this chapter.

NA = Not applicable.

Note: Other uses and activities not listed may be allowed by the director subject to the purpose and intent of this chapter.

B. Coordination with Other Permit Processes.

1. This chapter does not require any permit in addition to those otherwise required by Millwood ordinances.
2. The performance standards and other requirements of this chapter shall be applied to uses and activities shown in Table 18.08.030A or Table 18.08.075B through any permit or approval process otherwise required by Millwood ordinances.

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3. Uses and activities in a critical area or buffer for which no permit or approval is required by any other Millwood ordinance remain subject to the performance standards and other requirements of this chapter. However, this chapter does not require any review or approval process for such uses and activities.
  4. Millwood may approve, with conditions or deny any permit application for a use or activity listed in Table 18.08.030A or Table 18.08.075B in order to comply with the requirements of this chapter.
  5. Where the critical area regulations conflict each other, or with other laws, ordinances or programs, the most restrictive provisions shall apply.
- C. Process for Regulation of Fish and Wildlife Habitats, Potential Slide Hazard Areas (Geologically Hazardous Areas) and Critical Aquifer Recharge Areas.
1. The applicant shall make application to the city of Millwood for a development or land use permit.
  2. If the application involves a regulated use or activity, and it is in a critical area, then the applicant shall cause a field investigation and evaluation to be conducted. The purpose of the field investigation and evaluation is to determine whether the conditions listed in this ordinance with-will afford sufficient protection and to determine the need for further information.
    - a. If it is found the ordinance affords sufficient protection the application will be conditioned.
    - b. If it is found additional information is needed, the applicant shall cause a potential slide hazard area (geologically hazardous area) mitigation plan or a fish and wildlife management plan to be prepared, as applicable, ~~and such~~ Such plan will list protection measures required or recommended and the permit shall be conditioned as necessary.
  3. ~~The appeal process follows the route of the associated permit. Appeals of administrative decisions regarding provisions of this chapter use the administrative appeal process contained within the Millwood zoning code.~~
- D. Fish and Wildlife Habitats, Potential Slide Hazard (Geologically Hazardous Areas), and Critical Aquifer Recharge Areas.
1. The Millwood planning department maintains maps of fish and wildlife habitats, potential slide hazard areas (geologically hazardous areas), and critical aquifer recharge areas to provide information to the public and to aid in the administration of this chapter. The maps are not regulatory in nature.
  2. The maps will be used to identify the possible existence of fish and wildlife habitats, potential slide hazard areas (geologically hazardous areas), and critical aquifer recharge areas. The maps in conjunction with site visits and other information will be used as a basis for requiring field investigations, such as fish and wildlife management plans, geotechnical studies and hydrogeologic reports. In the event of a conflict between the information shown on the maps and information shown as a result of field investigations, the latter shall prevail.
  3. Additions, corrections and periodic updates to the maps shall be made when new or additional information is available. Omission of a site from the map will not exempt the site from complying with the provisions of this chapter. When an interpretation is needed as to the existence of a fish and wildlife habitat, geohazard area and critical aquifer recharge areas, the director shall make such determination according to the criteria and characteristics contained in this chapter and consultation with an agency or agencies of expertise as deemed appropriate by the director.
- E. Compliance by Owners.
1. The obligation to comply with any requirements within the scope and provisions of this chapter is with the owner of the property or land.

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F. Appeals.

1. Appeal of an Administrative Decision. The provisions of this section shall apply to any appeal involving an administrative decision on the requirements of this chapter. Any person aggrieved by an administrative decision of this chapter may file an appeal by:

a. Following the appeal procedures of the associated application;

b. [Appeal procedures for critical areas within shoreline management areas shall follow Chapter 18.12 of the Millwood Municipal Code;](#)

~~b.c.~~ If there is no associated application or appeal process, appealing to the Millwood hearing examiner using the following procedures:

i. A written notice of appeal shall be filed with the city of Millwood ~~rendering the decision~~ within fourteen (14) calendar days of the written decision.

ii. A fee shall accompany the notice of appeal equal to the fee charged for appeals of other administrative decisions by the city of Millwood.

iii. Upon receipt of the notice of appeal and the fee, an open record hearing date shall be determined. Notice for the hearing shall be given pursuant to the notice of hearing requirements for appeals of administrative decisions contained in ~~Chapter-Title 17-14~~ of the Millwood Municipal Code.

iv. Notice of the hearing examiner's decision on the appeal or regarding any request for reconsideration, shall be provided by certified mail to the appellant, and by first class mail to parties of record, and to the department whose administrative decision was appealed.

v. The hearing examiner decision on any appeal shall be final and conclusive, and given the effect of a final decision by the council.

vi. A party with standing may appeal the hearing examiner's decision pursuant to subsection (F)(2) of this section.

2. Appeal of a Decision by the hearing examiner.

a. Appeals of a hearing examiner decision shall be provided for by appeal to the Spokane County superior court.

b. Pending completion of all conditions of approval which need to be completed prior to permit issuance, permits can be released prior to the lapse of the appeal period; provided, that the city has no liability for expenses, delays, or inconvenience incurred by the applicant if the project/proposal is overturned or altered upon appeal.

G. Nonconforming Provisions. The provisions of ~~chapter 17.28 of the city zoning code~~[Chapter 17.38 of the Millwood Municipal Code](#), as amended, shall apply in determining the nonconforming status of a lot, use, building or structure under the provisions of this chapter.

H. Amendments. The council, the planning commission, a municipal department or an interested person, may initiate an amendment to this chapter. Amendments to this chapter shall be consistent with the Millwood comprehensive plan. In the case of an amendment initiated by an interested person, the department shall collect a fee to cover normal processing and the cost of legal notices as identified in the department fee schedule for ~~a "comprehensive plan~~ [amendments.](#) Such an amendment may be adopted, modified or denied by the ~~council~~[council following the procedures for amendments to development regulations in Title 14 of the Millwood Municipal Code.](#)

I. Enforcement/Violation/Penalty.

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1. Intent. It is the intent of this section to provide authority for, and the procedures to be used in, enforcing the provisions of this chapter to the end of furthering the purposes and objectives thereof.
  2. Enforcement.
    - a. It shall be the duty of the planning director, except as otherwise provided in this section, to interpret and enforce the provisions of this chapter and conditions of approval imposed by actions of the council, planning commission, [hearing examiner](#), and/or planning department.
    - b. The procedures set forth in this section are not exclusive. These procedures shall not in any manner limit or restrict the city of Millwood from remedying violations or abating violations in any manner authorized by law.
  3. Violation—A Misdemeanor/Civil Violation.
    - a. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of, any of the provisions of this chapter or conditions of approval imposed by actions of the council, planning commission, [hearing examiner](#), or the enforcement authority ~~shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than ninety (90) days or by a fine in an amount fixed by the court of not more than one thousand dollars (\$1,000.00), or by both such imprisonment and fine. Each day that a violation is permitted to exist shall constitute a separate offense.~~
    - ~~b. As an alternative to the above, as determined by the enforcement authority, any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of, any of the provisions of this chapter or conditions of approval imposed by actions of the council, planning commission or the enforcement authority shall be deemed to have committed a civil violation subject to the [monetary penalties as set forth in Chapter 17.36 of the Millwood zoning code enforcement and penalty provisions of Section 17.44.160 of the Millwood Municipal Code](#), or as amended. ~~Each day that a violation is permitted to exist shall constitute a separate civil violation.~~~~
    - [eb.](#) Civil Investigation Procedures. The enforcement authority may initiate an investigation of a violation of this chapter in response to a signed written complaint, field observations by a public agency employee in the course of his/her official duties, or other reliable information. Written complaints may be subject to disclosure pursuant to the State Public Disclosure Law.

The following procedures shall apply to an investigation of a violation of this chapter.

      - i. A physical inspection of the property and/or circumstances identified in the complaint or referral shall be conducted. The physical inspection must comply with legal right of entry requirements, as established by state and constitutional law;
      - ii. The enforcement authority shall determine, based on information derived from sources such as field observations, the statements of witnesses, relevant documents and applicable Millwood codes, whether a violation has occurred; and
      - iii. When a violation has been confirmed, a notice of investigation shall be ~~mailed-issued~~ to the property owner of record and/or those person(s) who are creating or contributing to the violation. The notice shall contain those items [and follow the process](#) specified in [Section 17.44.160 of the Millwood Municipal Code](#) ~~subsection (1)(3)(d) of this section.~~
    - ~~d. Notice of Investigation—Determination of a Civil Violation. A notice of investigation represents a determination by the enforcement authority that a civil violation has been committed. The notice of investigation shall include the following:~~

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- i. ~~A statement that the notice of investigation represents a determination by the enforcement authority that the person named in the notice has committed a civil violation.~~
  - ii. ~~A statement of the options provided in this chapter for responding to the notice of investigation and the procedures necessary to exercise these options.~~
  - iii. ~~A statement that the person must respond to the notice of investigation and show proof of compliance as provided for in this section within fourteen (14) days.~~
  - iv. ~~A statement that failure to respond to a notice of investigation and show proof of compliance may result in a civil violation.~~
  - v. ~~A statement that a civil violation is a noncriminal offense and a violation thereof is not subject to imprisonment.~~
  - vi. ~~A statement of the specific civil violation for which the notice of investigation is being issued.~~
  - vii. ~~A statement of the monetary penalty established for the civil violation.~~
  - e. ~~Civil Notice of Violation Procedures.~~
    - i. ~~The person(s) to whom a notice of investigation is sent, as set forth in subsection (1)(3) of this section shall have fourteen (14) days to respond or show proof of compliance. Proof of compliance includes, but is not limited to, entry into a voluntary compliance agreement.~~
    - ii. ~~If proof of compliance is not received within the fourteen (14) day period, the enforcement authority may issue a notice of violation and assess monetary penalties pursuant to Chapter 17.36 of the Millwood zoning code, as amended.~~
    - iii. ~~The enforcement authority may issue a notice of violation and assess monetary penalties pursuant to Chapter 17.36 of the Millwood zoning code, as amended if:~~
      - (A) ~~Neither a response nor proof of compliance was received within the fourteen (14) day period from the date of service of a notice of violation;~~
      - (B) ~~The terms of a voluntary compliance agreement have been violated or have not been met;~~
      - (C) ~~Repeat violations have occurred on the same property within an eighteen (18) month period of time;~~
      - (D) ~~For each day the violation continues to exist, after the date of service of a notice of violation, cumulative civil penalties may be assessed pursuant to Chapter 17.36 of the Millwood zoning code, as amended.~~
    - iv. ~~The civil notice of violation shall contain the required information for a notice of violation pursuant to Chapter 17.36 of the Millwood zoning code, as amended.~~
    - v. ~~A copy of the civil notice of violation shall be served upon the person(s) to whom it is directed either personally, or in the manner provided for personal service of notices or complaints in district court, or by mailing a copy of the civil notice of violation by certified mail, postage prepaid, return receipt requested, to such person at the person's last known address. Proof of personal service shall be made at the time of service by a written declaration under penalty of perjury executed by the person affecting service, declaring time, date and manner by which service was made.~~
    - vi. ~~The enforcement authority for good cause shown may extend the date for correction in the civil notice of violation, provided that such an extension shall not affect or extend the time within which an administrative appeal must be commenced.~~

- vii. — A copy of all civil notices of violations may be sent to other agencies if the violation may also be a violation of other agencies' regulations.
- viii. — The enforcement authority may withdraw or modify a civil notice of violation issued under this section if the original civil notice of violation was issued in error. Such withdrawal or modification shall identify the reasons and underlying facts.
- ix. — A civil notice of violation shall carry a monetary penalty pursuant to Chapter 17.36 of the Millwood zoning code, as amended. The payment of monetary penalty does not relieve a person(s) responsibility for correcting a violation.
- x. — The enforcement authority may dispense with some or all of the civil investigative procedures and notice of investigation procedures and immediately issue a notice of violation as set forth in subsection (I)(3)(c) of this section for those violations determined to be immediately hazardous to the general public health or safety.
- xi. — The procedures set forth in this section are not jurisdictional and failure to meet them in any particular case shall not affect the city's enforcement authority.
- xii. — Complainants who provide a mailing address may request information regarding enforcement of a civil violation. The enforcement authority shall mail copies of all public records pertaining to the enforcement effort to the complainants that are subject to disclosure under the State Public Disclosure Law.

f. — Voluntary Compliance Agreement. Whenever the enforcement authority determines that a code violation has occurred or is occurring, the enforcement authority shall make reasonable efforts to secure voluntary compliance from the person responsible for the violation. A voluntary compliance agreement may be entered into any time after a notice of investigation has been sent to the violator.

#### 4. — Collection of Civil Violation Monetary Penalty.

a. — The enforcement authority, on behalf of Millwood, and/or the prosecuting attorney is authorized to collect the monetary penalties by any and all appropriate legal means including, but not limited to, commencing appropriate legal proceedings in the Spokane County district court small claims department. No further action in an open meeting by the council is necessary to authorize initiation of any legal action.

b. — The monetary penalty is due and payable on the later of:

i. — Fourteen (14) days after the service of the notice of violation;

ii. — Fourteen (14) days after the service of the notice of decision on any appeals;

iii. — The assessment or payment of monetary penalties does not relieve a person(s) responsible for code compliance of his or her duty to correct the violation, nor does it prevent the assessment of additional monetary penalties as long as the violation continues to exist.

5. — Appeals. Appeal of a civil notice of violation issued under this section shall be to the Millwood planning commission according to the procedures set forth in Chapter 17.36 of the Millwood zoning code, as amended. Decisions made under this section are not subject to the provisions of subsection (F)(1), Appeal of an Administrative Decision, of this section.

**64.** Judicial Enforcement. In addition to any other remedy provided for in this section, the prosecuting attorney, on behalf of the city of Millwood, may seek enforcement of any provisions of this code by filing an appropriate legal action.

(Ord. 350 (part), 2005)

### **18.08.040 Emergency permits, reasonable use exception.**

#### **A. Emergency Activities—Temporary Emergency Permit.**

1. Criteria for Granting a Temporary Emergency Permit. Notwithstanding the provisions of this chapter or any other laws to the contrary, the director may issue a temporary emergency permit to allow regulated uses or activities in a fish and wildlife habitat conservation area or potential slide hazard area ([geologically hazardous area](#)), if:
  - a. The director determines that an imminent threat to public health, safety or the environment will occur if an emergency permit is not granted; and
  - b. The threat or loss may occur before a fish and wildlife habitat conservation area review can be issued or conditioned under the procedures otherwise required by this chapter.
2. Conditions of Emergency Permit. Any emergency permit granted shall:
  - a. Incorporate to the greatest extent practicable the standards and criteria required for nonemergency activities;
  - b. Be limited in duration to the time required to complete the authorized emergency activity, not to exceed ninety (90) days without reapplication; and
  - c. Require the restoration of any fish and wildlife habitat conservation area or potential slide hazard area ([geologically hazardous area](#)) altered as a result of the emergency activity within ninety (90) days following the emergency repair, or during the growing season after the emergency repair.

#### **B. Reasonable Use Exception.**

1. Requirements. If an applicant for a development proposal demonstrates to the satisfaction of the director that application of the standards of this chapter would deny all reasonable use of the property, development as conditioned shall be allowed. The applicant shall pay a fee as determined by the council, which may cover mailing and processing and submit documentation on forms provided by the department demonstrating all of the following to the satisfaction of the director:
  - a. Applications of this chapter would deny all reasonable use of the property;
  - b. There is no reasonable use with less impact on the fish and wildlife habitat or potential slide hazard area ([geologically hazardous area](#));
  - c. The requested use or activity will not result in any damage to other property and will not threaten the public health, safety or welfare on or off the property;
  - d. Any alteration to the fish and wildlife habitat or potential slide hazard area ([geologically hazardous area](#)) is the minimum necessary to allow for reasonable use of the property;
  - e. The inability of the applicant to derive reasonable use is not the result of actions by the applicant in subdividing the property or adjusting boundary lines thereby creating the nondevelopable condition after the effective date of the ordinance codified in this chapter.
2. Decision. The director shall include findings on each of the evaluation criteria listed in this section in a written decision. The written decision shall be mailed to the applicant and adjacent property owners, including property owners across public rights-of-way or private easements. The written decision shall include conditions necessary to serve the purposes of the ordinance and shall provide an appeal procedure as contained in Section 18.08.030 of this chapter.

**18.08.050 Fish and wildlife habitat conservation areas.**

A. Priority Habitats and Species Designation.

1. Washington State Priority Habitat and Species Program. The priority habitats and species of Millwood and Spokane County are identified in Table 18.08.050A of this section and are adopted from the Washington State [Dept of Fish & Wildlife \(WDFW\) Priority Habitats and Species Program](#), as now or hereafter amended, [including the current Threatened and Endangered Species list, the Priority Habitats and Species Maps \(PHS on the Web\), and the Riparian Ecosystems online 200 year site-potential tree height \(SPTH\) Map Tool](#). Due to the dynamic nature of fish and wildlife populations and their habitats, the priority habitats and species program will be revised periodically as species and habitats are added, deleted or redefined. The location of priority habitats and known point locations such as den or nest site of priority species will be depicted on the Millwood critical areas map which is available at the city of Millwood. [Early project consultation with WDFW on possible habitat impacting projects and use of WDFW priority habitat and species mapping systems can ensure that development is sited and designed in a manner that avoids habitat fragmentation and maintains ecological integrity.](#)

**Table 18.08.050A**

**PRIORITY HABITATS AND SPECIES OF MILLWOOD AND SPOKANE COUNTY**

[Per the PHS on the Web, there are two biodiversity areas and corridors priority habitats that occur within Millwood \(Freshwater Forested/Shrub Wetland and Shrubsteppe\).](#)

<b><u>PRIORITY HABITATS</u></b>	<b>CRITERIA</b>
Wetlands and deepwater	Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. Wetlands must have all of the following characteristics: (1) the land supports predominantly hydrophytic plants, (2) soil are hydric and (3) soils are saturated with water or covered by the shallow water at some time during the growing season of each year.  Deep water habitats are permanently flooded lands lying below the deep water boundary of wetlands. Deep water habitats include environments where surface water is permanent and often deep, so that water, rather than air is the principal medium within which the dominant organisms live.  Wetlands and deep water habitats support comparatively high wildlife density and diversity, provide breeding habitat and seasonal ranges, have limited availability and high vulnerability to habitat alteration.
Riparian	"Riparian habitat" is defined as the area adjacent to aquatic systems that contains elements of both aquatic and terrestrial ecosystems which mutually influence each other. In riparian systems, the vegetation, water tables, soils, microclimate, and wildlife inhabitants of terrestrial ecosystems are influenced by perennial or intermittent water. Simultaneously, the biological and physical properties of the aquatic ecosystems are influenced by adjacent vegetation, nutrient and sediment loading, terrestrial wildlife, as well as organic and inorganic debris. Riparian habitat encompasses the area beginning at the ordinary high water mark and extends to that portion of the terrestrial landscape that is influenced by, or that directly influences, the aquatic ecosystem. Riparian habitat includes the entire extent of the

	<p>floodplain and riparian areas of wetlands that are directly connected to stream courses or lakes. Riparian areas have high fish and wildlife density and high fish and wildlife species diversity, important fish and wildlife breeding habitat, important wildlife seasonal ranges important fish and wildlife movement corridors and high vulnerability to habitat alteration, unique or dependent species.</p> <p><a href="#">Per the SPTH Map Tool (October 2025), Millwood has six (6) trees included in the riparian ecosystem:</a></p> <ul style="list-style-type: none"> <li>• <a href="#">Lodgepole Pine with an imputed 200 year SPTH value of 103 feet</a></li> <li>• <a href="#">Ponderosa Pine with an imputed 200 year SPTH value of 121 feet + a SPTH value of 137 feet in the eastern portion of Millwood, referenced by Meyer 1961, where additional considerations for terrestrial wildlife are encouraged</a></li> <li>• <a href="#">Rocky Mountain Douglas Fir with an imputed 200 year SPTH value of 130 feet</a></li> <li>• <a href="#">Western Hemlock with an imputed 200 year SPTH value of 120 feet</a></li> <li>• <a href="#">Western Larch with an imputed 200 year SPTH value of 151 feet</a></li> <li>• <a href="#">Grand Fir with an imputed 200 year SPTH value of 139 feet</a></li> </ul>
Urban natural open space	<p>A priority species resides within or is adjacent to the open space, and uses it for breeding and/or regular feeding. This habitat may also function as a corridor connecting other priority habitat areas, especially those that would otherwise be isolated; and/or the open space is an isolated remnant of natural habitat larger than 10 acres and is surrounded by urban development. Local consideration may be given to open space areas smaller than 10 acres.</p> <p>Urban natural open space has comparatively high wildlife density and diversity, is important as a breeding habitat and is important as a movement corridor. These areas have limited availability and have a high vulnerability to habitat alteration.</p>
Wildlife corridors	<p>Wildlife corridors are landscape feature that facilitate the biologically effective transport of animals between larger patches of habitat dedicated to conservation functions. Such corridors may facilitate several kinds of traffic, including frequent foraging movements, seasonal migrations or the once in a lifetime dispersal of juvenile animals. These are transitional habitats and need not contain all the habitat elements required for the long term survival or reproduction of its migrants.</p>
Landscape linkages	<p>Landscape linkages differ from a movement corridor in that the complete range of community and ecosystem processes continue to operate within it through time. Plants and smaller animals are able to move between larger landscapes over a period of generations.</p>

SPOKANE COUNTY PRIORITY SPECIES (JUNE 2023)	STATUS (JUNE 2023)
<b>Amphibians</b>	
<a href="#">Columbia</a> Spotted frog	State <del>and federal candidate</del> <a href="#">Candidate</a>
<a href="#">Western Toad</a>	<a href="#">State Candidate</a>
<b>Birds</b>	
American White Pelican	State <del>endangered</del> <a href="#">Sensitive</a>
<del>Ash-throated Flycatcher</del>	<del>State monitor</del>

Bald eagle	State and federal threatened
Black-backed Woodpecker	State <del>monitor</del> <u>Candidate</u>
<del>Blue Grouse</del>	<del>Game</del>
Burrowing <del>owl</del> <u>Owl</u>	State <u>C</u> andidate
Cavity-nesting ducks (includes Barrow's Goldeneye, Bufflehead, Common Goldeneye, Hooded Merganser and Wood <del>duck</del> <u>Duck</u> )	<del>Game</del>
<del>Common Loon</del>	<del>State candidate</del>
<del>Dusky Grouse</del>	
<del>E WA breeding concentrations of: Grebes, Cormorants</del>	
<del>E WA breeding occurrences of: Phalaropes, Stilts, and Avocets</del>	
<del>E WA breeding Terns</del>	
<del>Ferruginous Hawk</del>	<del>State Endangered</del>
Flammulated <del>owl</del> <u>Owl</u>	State <del>candidate</del> <u>Candidate</u>
Golden <del>eagle</del> <u>Eagle</u>	State <del>candidate</del> <u>Candidate</u>
<del>Grasshopper Sparrow</del>	<del>State monitor</del>
Great Blue Heron	<del>State monitor</del>
<del>Horned Grebe</del>	<del>State monitor</del>
<del>Lewis Woodpecker</del>	<del>State candidate</del>
<del>Long Billed Curlew</del>	<del>State monitor</del>
<del>Merlin</del>	<del>State monitor</del>
Northern Goshawk	State <del>candidate</del> <u>Candidate</u>
Osprey	<del>State monitor</del>
<del>Peregrine Falcon</del>	<del>State endangered</del>
<del>Prairie Falcon</del>	
<del>Pileated Woodpecker</del>	<del>State candidate</del>
<del>Red-necked Grebe</del>	<del>State monitor</del>
<del>Sage Thrasher</del>	<del>State Candidate</del>
Sandhill Crane	State <del>endangered</del> <u>Endangered</u>
<del>Snowy owl</del>	<del>State monitor</del>
<del>Trumpeter Swan</del>	<del>Game</del>
<del>Tundra Swan</del>	

Upland Sandpiper	State <del>endangered</del> <u>Endangered</u>
Vaux's Swift	<u>State candidate</u>
<u>Waterfowl Concentrations</u>	
<u>Western Bluebird</u>	<u>State candidate</u>
Western Grebe	State <del>monitor</del> <u>Candidate</u>
White-headed Woodpecker	State <del>candidate</del> <u>Candidate</u>
<b>Fishes</b>	
<u>Kokanee</u>	
Rainbow trout / <u>Steelhead*</u> / <u>Inland Redband Trout</u>	<del>Game</del> <u>State Candidate*</u> and <u>Federal Threatened*</u>
<u>Westslope Cutthroat Trout</u>	
<b>Invertebrates</b>	
<u>Shortface Lanx (formerly Giant Columbia River Limpet)</u>	<u>State Candidate</u>
<u>Ashy Pebblesnail (formerly Columbia Pebblesnail)</u>	<u>State Candidate</u>
<u>California Floater</u>	<u>State Candidate</u>
<u>Western Bumble Bee</u>	<u>State and Federal Candidate</u>
<u>Monarch</u>	<u>State and Federal Candidate</u>
<u>Silver-bordered Fritillary</u>	<u>State Candidate</u>
<b>Mammals</b>	
<u>Roosting Concentrations of: Big-brown Bat, Myotis Bats, Pallid Bat</u>	
<u>Townsend's Big-eared Bat</u>	<u>State Candidate</u>
<u>White-tailed Jackrabbit</u>	<u>State Candidate</u>
Marten	<del>Game</del>
<u>Lynx</u>	<u>State and Federal Threatened</u>
<u>Wolverine</u>	<u>State Candidate and Federal Threatened</u>
<u>Moose</u>	
<u>Pigmy Shrew</u>	<u>State candidate</u>
<u>Northwest White-tailed deer</u> <del>Deer</del>	<del>Game</del>
<u>Elk</u>	
<u>Mule Deer (formerly called Rocky Mountain Mule Deer)</u>	
<u>Beaver</u>	
<u>Mink</u>	

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River Otter	
	<a href="#">* Steelhead only</a>

Note(s)—Definitions for species status are contained in the Washington Department of Fish and Wildlife Management Recommendations for Priority Species and in WAC 232.12.

B. Regulated Uses and Activities in Priority Habitats.

1. For the purposes of this chapter, Millwood may restrict the regulated uses and activities shown in Table 18.08.030A which lie within a priority habitat by definition or within one-quarter mile of a point location (den or nest site) of a nongame priority species through the application of the performance standards contained in subsection C of this section.
2. In cases where differences in regulations occur because of overlapping priority habitats or buffer areas, the regulation which provides the greatest degree of protection shall apply.

C. Performance Standards for Regulated Uses and Activities.

1. A management plan, if required, will be used by the city of Millwood to evaluate the impact of a use or activity on a priority habitat or species and may require mitigating measures to protect fish and wildlife based on the management plan recommendations.
2. Riparian Habitat Performance Standards.
  - a. Except as otherwise specified, riparian areas shall be retained in their natural condition. Riparian vegetation in buffer areas shall not be removed except in the case of fire or disease, unless there is no alternative. For lots or parcels with water frontage on the Spokane River, one view/access corridor to the ordinary high water mark may be cleared of riparian vegetation as long as the view/access corridor does not exceed a width of twenty-five (25) feet.
  - b. Roads within riparian buffer areas shall be kept to a minimum and shall not run parallel to the water body. Crossings where necessary, shall cross riparian areas at as near right angles as possible. If no alternative exists to placement of a roadway within a riparian area, mitigation may be required. Mitigation measures shall be specified in a management plan and may include, but are not limited to:
    - i. Fencing of riparian buffer area to protect remaining vegetation [with wildlife friendly fencing](#); and
    - ii. Enhancement of remaining riparian buffer area through planting of native vegetation. Water crossings must be approved by the Washington State Department of Fish and Wildlife according to WAC 75.20.100 [\(construction projects in State waters\)](#).
  - c. Equestrian [and](#) pedestrian/bike trails are permitted in riparian buffer areas but should be setback fifty (50) feet from the ordinary high water mark, if possible and shall be a maximum of fourteen (14) feet in width.
  - d. Off-road motorized vehicle use in riparian buffers areas is prohibited.
  - e. [Ensure that transportation, utility, and infrastructure planning considers wildlife corridors by designing roads and utilities to avoid fragmentation of habitats, incorporating wildlife crossings and culvert upgrades into project designs.](#)
  - f. [Riparian buffer areas shall be established from the ordinary high water mark. The Spokane River shall have the buffer area requirement of fifty \(50\) feet or based on the current best available science such as the SPTH, when possible, or if required by a Habitat Management Plan.](#)

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(Supp. No. 21, Update 2)

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**gf.** The director has the authority to increase the buffer widths shown above by up to twenty-five (25) percent on a case by case basis when a larger buffer is necessary to protect the fish and wildlife using the stream and riparian area. This determination shall be supported by appropriate documentation showing that the increased buffer width is reasonably related to the protection of the fish and/or wildlife using the stream and riparian area as indicated by meeting one or both of the following criteria:

- i. The land adjacent to the water is susceptible to severe erosion and other erosion control measures will not prevent adverse impacts;
- ii. The land adjacent to the water has minimal vegetative cover or slopes greater than thirty (30) percent.

**hg.** The director has the authority to modify the standard buffer widths by averaging buffer widths. Averaging of buffer widths shall be allowed only when all of the following are demonstrated:

- i. Averaging will provide the necessary biological, chemical and physical support necessary to protect the fish and wildlife using the riparian area in question, taking into account the type, intensity, scale and location of the proposed use or activity;
- ii. The riparian area contains variations in sensitivity due to existing physical characteristics which justify the averaging;
- iii. The land uses causing the least disturbance would be located adjacent to areas where the buffer width is reduced and that such land uses are guaranteed in perpetuity by covenant, deed restriction, easement or other legally binding mechanism;
- iv. The total area contained within the buffer after averaging is not less than that contained within the standard buffer prior to averaging.

**jh.** All development proposals shall follow the bald eagle protection rules (RCW 77.12.655 and WAC 232.12.292), as now or hereafter amended, when the proposal is likely to have a direct impact on the habitat of the bald eagle.

### 3. Habitat Management Plans.

- a. A habitat management plan shall be prepared for regulated uses or activities (refer to Table 18.08.030A of this section which are located in a priority habitat or within one-quarter mile of a nongame priority species point location (den or nest site) if it is determined by the director that the proposal is likely to have a significant adverse impact on the priority habitat or species. The determination of a need for additional information (habitat management plan) shall be made by the director in consultation with the Washington State Department of Fish and Wildlife or other authority as determined by the director.
- b. This report shall identify how the impacts from the proposed use or activity will be avoided or mitigated through habitat mitigation which meets the purposes of this chapter. The Management Recommendations for Washington's Priority Species (1991), as now or hereafter amended, and consultation with a habitat biologist from the Washington State Department of Fish and Wildlife shall be the basis for the report.
- c. The habitat management plan shall be prepared by a qualified biologist shall be approved in writing by the director and shall contain but not be limited to the following information:
  - i. A map(s) prepared at an easily readable scale in a pdf format, preferably utilizing Google Earth or a GIS software, showing:
    - (A) The location of the proposed site;

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- (B) The relationship of the site to surrounding topographic and built features;
  - (C) The nature and density of the proposed use or activity;
  - (D) Proposed building locations and arrangements;
  - (E) A complete and accurate legal description. The description shall include the total acreage of the parcel;
  - (F) Title scale and north arrow;
  - (G) Date;
  - (H) Certification by a qualified biologist;
  - (I) Existing structures and landscape features, including the name and location of all water bodies;
  - (J) Location of priority habitat types or priority species point locations.
- ii. A report which contains:
- (A) A description of the nature, density and intensity of the proposed use or activity in sufficient detail to allow analysis of such land use change upon identified wildlife habitat.
  - (B) An analysis of the effect of the proposed use or activity upon fish and wildlife species and their habitats, identified within the priority habitat and species program as defined in this chapter.
  - (C) A plan which explains how the applicant will avoid, minimize or mitigate adverse impacts to fish and/or wildlife habitats created by the proposed use or activity. Mitigation measures within the plan may include, but are not limited to:
    - (1) Establishment of buffer areas;
    - (2) Preservation of critically important plants and trees;
    - (3) Limitation of access to habitat area;
    - (4) Seasonal restriction of construction activities;
    - (5) Clustering of development and preservation of open space;
    - (6) Signs marking habitats or habitat buffer areas;
    - (7) Title notice or plat dedication warning statements;
    - (8) Conservation easements.
- iii. Review comments by a habitat biologist from the Washington State Department of Fish and Wildlife (WDFW). If the habitat management plan recommends mitigation involving federally listed threatened or endangered species, migratory waterfowl or wetlands, the U.S. Fish and Wildlife Service shall receive a copy of the draft habitat management plan and their review comments shall be included in the final report. The Washington State Department of Fish and Wildlife and, if required, the U.S. Fish and Wildlife service shall respond in writing to the director with review comments or a request for additional information within fifteen (15) days from the date of issuance of a draft habitat management plan. If review comments or a request for additional information is not received in the prescribed time frame, the state and/or federal review comments on the

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habitat management plan shall not be required. The director shall have the authority to approve habitat management plans or require additional information.

4. Financial Guarantees. The director may require the applicant to post a performance bond or other security to ensure implementation of the requirements of any mitigation plan approved pursuant to this section.
5. Habitats and Species of Local Importance. In addition to the priority habitats and species recognized by WDFW, a process is provided for listing or delisting other habitats and species that are important locally to the people of Spokane County. This action may be initiated at the request of the Washington State Department of Fish and Wildlife, other government agency, Millwood staff, nonprofit organization or interested citizen.

Any such request shall be in writing and shall include:

- a. The common and scientific name for a species under consideration;
- b. Habitat location on a map (scale 1:24,000);
- c. Demonstrate a need for special consideration based on:
  - i. Declining or increasing population,
  - ii. Sensitivity to habitat manipulation, or
  - iii. Commercial or game value or other special value, such as public appeal;
- d. Habitat management recommendations, including potential uses and restrictions of the habitat areas, seasonally sensitive areas and other guidelines necessary for the protection of the species;
- e. Reasons for the species/habitat to be designated or deleted from designation as a priority habitat or species;
- f. Name and address of the nominator, along with a statement of support for the nomination signed by the owner of the property on which the habitat is located;
- g. Other Supporting Documentation. Submitted proposals will be reviewed by Millwood staff, WDFW and/or other local, state or federal agencies or experts for comments and recommendations regarding accuracy of the data and effectiveness of proposed management strategies.

A public hearing shall be held for proposals found to be completed pursuant to the process contained in [Title 14 of the Millwood Municipal Code for amendments to development regulations, Chapter 17.28 of the Millwood zoning code](#). Approved nominations will be designated priority habitats/species as appropriate and will be given all protection under this ordinance afforded other priority habitats and species.

(Ord. 350 (part), 2005

(Ord. No. 390, § 3, 12-7-2009)

#### **18.08.060 Potential slide hazard areas [\(geologically hazardous areas\)](#).**

- A. Classification Characteristics. Potential slide hazard areas [\(geologically hazardous areas\)](#) can include both erosion and landslide hazard areas. Erosion and/or landslide hazard areas in Millwood shall contain at least one of the following characteristics:
  1. A slope of thirty (30) percent or greater;

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2. Soils identified by Natural Resource Conservation Service as having a severe potential for erosion (see Section 18.08.090, Appendix A of this chapter);
  3. Hydraulic factors, such as existing on-site surface and groundwater or changes in hydraulic factors, caused by proposals that create a severe potential for erosion or landslide hazard;
  4. Areas that historically have been prone to land sliding (areas adjacent to lakes, streams, springs) or any one of the following geologic formations: alluvium, landslide deposit, Latah formation;
  5. Areas of uncompacted fill;
  6. Areas that are unstable as a result of rapid stream or stream bank erosion.

B. Identification and Mapping.

1. The existing critical areas map provides a general level of information regarding potential slide hazard areas ([geologically hazardous areas](#)) and is not intended to pinpoint erosion or landslide hazards on individual sites or properties. Lands that meet the classification characteristics for erosion and landslide hazards are mapped and used to flag areas within Millwood that have a high probability to meet the classification characteristics. There may be areas not designated on Millwood maps that exhibit the characteristics of potential slide hazard areas ([geologically hazardous areas](#)). The critical area map shall be updated as more accurate information becomes available to aid the public and project reviewers.
2. Specific information may be provided by the applicant that indicates characteristics are not present on the site or that the proposal is not located within nor will impact a potential slide hazard area ([geologically hazardous area](#)); however, it is the intent of this chapter to require all areas that meet the classification characteristics of potential slide hazard areas ([geologically hazardous areas](#)) to meet the requirements of this section.
3. Classification characteristics are identified as follows:
  - a. Soil characteristics are identified as those areas containing soils which according to the U.S. Department of Agricultural Soil Conservation Service (SCS) Classification System may experience severe to very severe erosion based on a formula which is based on several factors, including rainfall, slope, soil erodibility and other factors. Potential slide hazard areas ([geologically hazardous areas](#)) are based on a combination of geologic, topographic (slope) and hydraulic factors and have a high susceptibility to landslides.
  - b. Geologic characteristics are areas identified and described by the Washington State Department of Natural Resources and include:
    - i. Alluvium;
    - ii. Landslide deposits;
    - iii. Latah formation.
  - c. Topographic characteristics include areas within Millwood with severe site topography or slopes of thirty (30) percent or greater and have a severe potential for erosion and/or landslide hazards.
  - d. Other Characteristics. Hydraulic features include surface and groundwater conditions and the hydraulic changes resulting from a proposal. Uncompacted fill areas or steep-cuts as a result of site grading, construction activities or resource extraction.

C. Potential Slide Hazard Area ([Geologically Hazardous Area](#)) Mitigation Plan and Evaluation.

1. Potential Slide Hazard Area ([Geologically Hazardous Area](#)) Mitigation Plans.
  - a. A potential slide hazard area ([geologically hazardous area](#)) mitigation plan prepared by a qualified landslide or erosion specialist shall be required when the director determines that the impact of

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- a use or activity located in a potential slide hazard area ([geologically hazardous area](#)) cannot be mitigated through the Millwood building code as adopted and as may be amended.
- b. A potential slide hazard area ([geologically hazardous area](#)) mitigation plan shall be prepared to identify construction standards for the proposal.
  - c. Potential slide hazard area ([geologically hazardous area](#)) mitigation plans shall conform to Millwood regulations for stormwater management or any subsequent regulation adopted by Millwood providing erosion and landslide protection.
  - d. A potential slide hazard area ([geologically hazardous area](#)) mitigation plan, prepared by a qualified landslide or erosion specialist, shall be prepared for building permits, road construction, utilities and storm drainage facility installations within a potential slide hazard area ([geologically hazardous area](#)).
2. Potential Slide Hazard ([Geologically Hazardous Area](#)) Evaluation, Preliminary Report. A potential slide hazard ([geologically hazardous area](#)) evaluation or feasibility report shall be prepared by a qualified landslide or erosion specialist and submitted with applications for preliminary plats, short plats, zone reclassifications, conditional use permits, variances, or ~~manufactured home park~~ site plans located in potential slide hazard areas ([geologically hazardous areas](#)). The potential slide hazard ([geologically hazardous area](#)) evaluation shall document the extent and nature of potential slide / [geologic](#) hazard on the subject property and shall provide mitigating measures and an assessment of potential slide / [geologic](#) hazards associated with the proposal. A more detailed potential slide hazard area ([geologically hazardous area](#)) mitigation plan may be required at the time of building permit application or actual construction approvals.
  3. Subdivision Dedication Notice. Final subdivisions or short plats located within potential slide hazard areas ([geologically hazardous areas](#)) shall contain language in the plat dedication to indicate lots or portions of lots that are affected by potential slide / [geologic](#) hazards. In addition, building setback lines may be drawn on lots, parcels and tracts as to indicate suitable areas for construction of structures or improvements.

(Ord. 350 (part), 2005)

### **18.08.075 Critical aquifer recharge areas.**

The Growth Management Act requires Millwood to designate areas and adopt development regulations for the purpose of protecting areas within the Millwood critical to maintaining groundwater recharge and quality. This section specifies the requirements to be enacted when regulated development within these areas is proposed to occur. This section applies to any person, firm, or corporation that establishes or proposes to establish new, expanded, enlarged or different land use or activity identified in Table 18.08.075B of this section within a designated critical aquifer recharge areas in the city of Millwood.

- A. Designation and Rating.
  1. Critical aquifer recharge areas are those areas with a critical recharging effect on aquifers used for potable water as defined by Section 365-190-030(2) WAC. Critical aquifer recharge areas have prevailing geologic conditions associated with infiltration rates that create a high potential for contamination of groundwater resources or contribute significantly to the replenishment of groundwater.
  2. Aquifer recharge areas are rated as having a high, moderate, or low susceptibility based on a scientific analysis of soils, hydraulic conductivity (the ease with which water moves between the surface and aquifers), annual rainfall, the depth to aquifers, the importance of the material

between soils and aquifers (Vadose zone), and wellhead protection information. If a parcel lies within two or more susceptibility rating designations, the higher susceptibility rating designation shall apply to the whole parcel.

3. Designated wellhead protection areas and areas within a one thousand (1,000)-foot radius of wells without reported plans, are additionally treated as high-susceptibility areas. As wellhead protection plans are completed for wells, the one thousand (1,000)-foot radius placeholder will be replaced by the Washington State Department of Health-certified wellhead protection area.
  4. Critical aquifer recharge area (CARA) mapping by Spokane County indicates the city of Millwood sites entirely over, or in, an aquifer recharge area rated as high susceptibility due to location over the Spokane rathdrum prairie aquifer and soil type. Soil types are listed in Appendix A.
- B. Uses and Activities Regulated in Critical Aquifer Recharge Areas. Table 18.08.075B establishes the following uses and activities regulated by the requirements of this section. This table should be interpreted with the corresponding performance standards set forth in subsection C of this section.

**TABLE 18.08.075B**

Uses and Activities Regulated in Critical Aquifer Recharge Areas	Aquifer Susceptibility Rating
	High**
Biosolids land application	N
Critical material storage, handling, generating or use	L-2, L-3
Cultivation of land (commercial)	L-1
Dairy	L-1*
Floriculture (flower growing)	L-1
Grazing	L-1
Greenhouse—Commercial	L-1
Horse boarding and training	L-1
Horticulture (vegetable growing)	L-1
Large animal raising and/or keeping	L-1
Nursery—Wholesale	L-1
Orchard	L-1
Poultry-raising, commercial	N
Riding stable	L-1
Sanitary waste discharge	L-2, L-3
Stormwater disposal systems	L-4
Tree farming	L-1
Truck gardening	L-1
Vineyard	L-1

Index:

N = Not permitted.

L = Limited Uses. These uses are permitted if they comply with the standards of this chapter and the corresponding performance standards listed in subsection C of this section.

\* A hydrogeologic study is required for this use.

\*\* Designated wellhead protection areas and areas within a one thousand (1,000)-foot radius of wells without reported plans, are additionally treated as high aquifer susceptibility areas.

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C. Performance Standards for Uses and Activities in Critical Aquifer Recharge Areas. The following are the performance standards applicable to the uses and activities listed in Table 18.08.075B of this section.

1. L-1 Agriculture.

- a. Agricultural practices that impact critical aquifer recharge areas shall be mitigated by having a conservation plan prepared and the subject property shall be required to comply with approved land management and/or conservation practices that protect groundwater, as set forth in the United States Department of Agriculture Natural Resource Conservation Service (NRCS) Technical Guides, and all local state and federal regulations and their amendments governing agricultural practices. The NRCS technical guide is available at the local field office of the Natural Resource Conservation Service.
- b. Agricultural practices that are accessory to a primary residential use, including animal raising and/or keeping, and that exist for the personal enjoyment of the property resident, shall be exempted, and this subsection shall be advisory only as to those accessory agricultural practices.

2. L-2 Critical Materials Storage, Handling, Generating or Use. Critical materials subject to the following performance standards are set forth in the critical materials list in Chapter 3.15, as amended, of the Spokane County Code (adopted by reference):

- a. All facilities related to the use of critical materials shall be designed so that:
  - i. Any spilled or leaked critical materials are contained on site;
  - ii. Any spilled or leaked critical materials cannot infiltrate into the ground; and
  - iii. No disposal of any waste containing critical materials shall be allowed on site.
- b. Stormwater draining facilities in areas where critical material spills could occur shall be designed so that:
  - i. Mingling of stormwater and spilled critical materials is prevented; and
  - ii. Spill cleanup procedures are enhanced.
- c. Underground storage tanks used for containing critical material shall be installed and maintained according to the provisions in Chapter 3.15 of the Spokane County Code (adopted by reference).
  - i. Surface or subsurface disposal of a critical material is prohibited.

3. L-3 Wastewater Disposal.

- a. Performance Standards Applicable to All Areas in Millwood. Critical material use activities that produce a process waste instead of or in addition to sanitary waste shall utilize one of the following methods for waste management and disposal:
  - i. Separate waste disposal systems shall be provided so those sanitary and process wastes are handled separately. The process waste shall be disposed of by collection in sealed holding tanks and shall be transported and disposed of at a site licensed for disposal of this effluent. An agreement to dispose of process waste under this section shall be recorded in the Spokane County auditor's office and shall not be removed without approval by Millwood.
  - ii. Sanitary and/or process waste waters shall be managed in compliance with a valid authorization from a publicly owned treatment works (POTW), which shall include any required pretreatment or monitoring;

- iii. Sanitary and/or process wastewaters shall be managed in compliance with a valid surface water discharge permit, which is obtained from the Washington State Department of Ecology.
  - iv. [Any failing septic systems that pollute waters of the state must provide corrective action consistent with Washington State Department of Health and Washington State Department of Ecology requirements.](#)
- b. Performance Standards for New Development.
    - i. Public sewer services consistent with the adopted levels of service and concurrency requirements set forth in the Millwood comprehensive plan and the Millwood zoning code, or as amended, are required for all new residential and nonresidential uses.
4. L-4 Stormwater Disposal.
- a. Development shall provide for the treatment of stormwater run-off from impervious surfaces in a manner consistent with the Millwood Municipal Code, as amended.
  - b. Direct injection wells without an associated drainage swale or drainage swale system for stormwater disposal within five hundred (500) feet of wellhead protection areas are prohibited.

(Ord. 350 (part), 2005)

### **18.08.080 Incentives.**

#### **A. Property Tax and Income Tax Advantages.**

1. **Property Tax Relief.** The Spokane County assessor shall consider the fish and wildlife habitat conservation areas and potential slide hazard areas ([geologically hazardous areas](#)) contained within this chapter when determining the fair market value of land.

Any owner of a fish and wildlife habitat conservation area who has dedicated a conservation easement or entered into a perpetual conservation restriction with a department of the local, state, or federal government; or a nonprofit organization to permanently control some or all the uses and activities within these areas may request that the Spokane County assessor reevaluate that specific area consistent with those restrictions and provisions of open space land current use taxation.

2. **Federal Income Tax Advantages.** There are significant federal income tax advantages that can be realized by an individual or estate for gifts of real property for conservation purposes to local governments or nonprofit organizations such as land trusts. The specific rules on federal income tax deductions can be found in Section 170 of the Internal Revenue Code.

#### Appendix A

The Table A-1 indicates soils of the Spokane County area that are most susceptible to erosion. Within the Millwood area specifically the following soils are found: Older Glacial Deposits Qgo, Glacial Flood Deposits Qgf, Palouse Formation Qp and Columbia River Group and Latah Formation Tcl. Although the Millwood area soils are not listed in Table A-1, they are gravelly loam type soils that are not always stable and have a high water infiltration rate.

**Table A-1**

Spokane County Soils Soil  
Survey Spokane County, Washington  
7/6/94

Map Symbol	Map Unit Name	Erosion Factors		Erosion Hazard
		K	T	
AaC	Athena silt loam, 5 to 30% slopes	0.37	5	Severe
AaD	Athena silt loam, 30 to 55% slopes	0.37	5	Severe
AaE	Athena silt loam, 55 to 70% slopes	0.37	5	Severe
AaD	Athena silt loam, 5 to 55% slopes	0.37	5	Severe
AiC	Athena-lance silt loams, 0 to 30% slopes	0.37	5	Severe
AiD	Athena-lance silt loams, 30 to 55% slopes	0.37	5	Severe
BaB	Bernhill silt loam, 0 to 20% slopes	0.43	5	Severe
BaC	Bernhill silt loam, 20 to 30% slopes	0.43	5	Severe
BaD	Bernhill silt loam, 30 to 55% slopes	0.43	5	Severe
BbB	Bernhill silt loam, moderately shallow 30 to 55% slopes	0.37	2	Severe
BfD	Bernhill very stony silt loam, 20 to 55% slopes	0.24	5	Severe
BhD	Bernhill soils, 20 to 55% slopes	0.24	5	Severe
BkC	Bernhill very rocky complex, 0 to 30% slopes	0.43	5	Severe
BkD	Bernhill very rocky complex, 30 to 55% slopes	0.43	5	Severe
BrC	Bong and Phoebe coarse sandy loams, 20 to 30% slopes	0.24	5	Severe
BxD	Brickel stony loam, 20 to 55% slopes	0.24	2	Severe
CeB	Cedonia silt loam, 5 to 20% slopes	0.37	5	Severe
CeC3	Cedonia silt loam, 20 to 30% slopes, severely eroded	0.37	5	Severe
CtB	Clayton loam, 5 to 20% slopes	0.37	3	Severe
DaB	Drearyton silt loam, 5 to 20% slopes	0.32	3	Severe
DaC	Drearyton silt loam, 20 to 40% slopes	0.32	3	Severe
DrC	Dragoon silt loam, 0 to 30% slopes	0.37	2	Severe
DsC	Dragoon stony silt loam, 0 to 30% slopes	0.32	2	Severe
DsC	Dragoon stony silt loam, 0 to 30% slopes	0.32	2	Severe
DsD	Dragoon stony silt loam, 30 to 55% slopes	0.32	2	Severe
DvD	Dragoon variant, very rocky complex 20 to 50% slopes	0.37	1	Severe
EiD	Eloika very stony silt loam, 30 to 55% slopes	0.24	3	Severe
FaB	Freeman silt loam, 30 to 55% slopes	0.32	5	Severe
FAB3	Freeman silt loam, 5 to 20% slopes, severely eroded	0.32	5	Severe
FaC3	Freeman silt loam, 20 to 30% slopes, severely eroded	0.32	5	Severe
GaC3	Gardfield silty clay loam, 0 to 30% slopes, severely eroded	0.32	5	Severe
GpB	Glenrose silt loam, 5 to 20% slopes	0.32	5	Severe
GpC	Glenrose silt loam, 20 to 30% slopes	0.32	5	Severe

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GpD	Glenrose silt loam, 30 to 55% slopes	0.32	5	Severe
GrD	Glenrose silt loam, 20 to 55% slopes	0.24	5	Severe
GsD	Glenrose stony silt loam, 20 to 55% slopes	0.32	5	Severe
GtB	Green bluff silt loam, 5 to 20% slopes	0.32	5	Severe
HfC	Hagen loamy fine sand, 0 to 30% slopes	0.32	5	Severe
HvD	Hesseltine very rocky complex, 30 to 55% slopes	0.10	1	Severe
LaD	Lakesol silt loam, 20 to 55% slopes	0.32	5	Severe
LeB	Laketon silt loam, 5 to 20% slopes	0.37	5	Severe
LmC	Lance silt loam, 0 to 30% slopes	0.55	5	Severe
LmC3	Lance silt loam, 0 to 30% slopes, severely eroded	0.55	5	Severe
LnB2	Larking silt loam, 5 to 20% slopes, eroded	0.32	5	Severe
LnD2	Larking silt loam, 20 to 45% slopes, eroded	0.32	2	Severe
MmC	Moscow silt loam, 0 to 30% slopes	0.32	2	Severe
MmD	Moscow silt loam, 30 to 55% slopes	0.32	2	Severe
MoC	Moscow silt loam, shallow, 0 to 30% slopes	0.37	1	Severe
MoD	Moscow silt loam, shallow, 30 to 55% slopes	0.37	1	Severe
MsC	Moscow very rocky complex, 0 to 30% slopes	0.37	1	Severe
MsE	Moscow very rocky complex, 30 to 70% slopes	0.37	1	Severe
NaC	Naff silt loam, 5 to 30% slopes	0.32	5	Severe
NaC2	Naff silt loam, 5 to 30% slopes, eroded	0.32	5	Severe
NaC3	Naff silt loam, 0 to 30% slopes, severely eroded	0.32	5	Severe
NaD2	Naff silt loam, 30 to 45% slopes, eroded	0.32	5	Severe
NpB	Nez Perce silt loam, 5 to 20% slopes	0.32	5	Severe
NpB3	Nez Perce silt loam, 5 to 20% slopes, severely eroded	0.32	5	Severe
PaC	Palouse silt loam, moderately shallow, 20 to 30% slopes	0.32	2	Severe
PbC2	Palouse silt loam, 5 to 30% slopes, eroded	0.32	5	Severe
PcE	Palouse very rocky complex, 30 to 70% slopes	0.10	1	Severe
RdB	Reardan silt loam, 5 to 20% slopes	0.37	3	Severe
RdB2	Reardan silt loam, 5 to 20% slopes, eroded	0.37	3	Severe
RdC2	Reardan silt loam, 20 to 30% slopes, eroded	0.37	3	Severe
SaC	Schumacher silt loam, 20 to 30% slopes	0.32	3	Severe
SaC2	Schumacher silt loam, 20 to 30% slopes, eroded	0.32	3	Severe
SaD	Schumacher silt loam, 30 to 55% slopes	0.32	3	Severe
ScD	Schumacher gravelly silt loam, 30 to 55% slopes	0.20	3	Severe
ScD2	Schumacher gravelly silt loam, 30 to 55% slopes, eroded	0.20	3	Severe
SnC	Snow silt loam, 5 to 30% slopes	0.32	5	Severe
SoE	Speigle very stony silt loam, 30 to 70% slopes	0.20	5	Severe
SpC	Spokane loam, 0 to 30% slopes	0.28	2	Severe
SpD	Spokane loam, 30 to 55% slopes	0.28	2	Severe
SrE	Spokane stony loam, 30 to 70% slopes	0.24	2	Severe
SsC	Spokane complex, 0 to 30% slopes	0.28	2	Severe
SsE	Spokane complex, 30 to 70% slopes	0.28	2	Severe
StE	Spokane very rocky complex, 30 to 70% slopes	0.28	2	Severe

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SuE	Spokane extremely rocky complex, 20 to 70% slopes	0.24	2	Severe
SzE	Springdale gravelly loamy sand, 30 to 70% slopes	0.10	5	Severe
TeC	Tekoa gravelly silt loam, 20 to 30% slopes	0.24	2	Severe
TeD	Tekoa gravelly silt loam, 30 to 55% slopes	0.24	2	Severe
TkD	Tekoa very rocky complex, 25 to 55% slopes	0.24	2	Severe
UhB	Uhlig silt loam, 5 to 20% slopes	0.37	5	Severe
UmC	Uhlig variant silt loam, moderately shallow, 5 to 30% slopes	0.37	2	Severe
VaC	Vassar silt loam, 0 to 30% slopes	0.32	3	Severe
VaD	Vassar silt loam, 30 to 55% slopes	0.32	3	Severe
VsD	Vassar very rocky silt loam, 20 to 55% slopes	0.32	3	Severe

(Ord. 350 (part), 2005)