

ORDINANCE NO. 12-19

AN ORDINANCE of the City of Richland amending Chapter 22.10 of the Richland Municipal Code related to critical areas.

WHEREAS, the City has need, from time to time, to update the Richland Municipal Code (RMC) to bring it into alignment with state law; and

WHEREAS, on June 7, 2018, the Growth Management Hearings Board for the Eastern Washington Region determined that Ordinance No. 40-17, amending RMC 22.10.185, RMC 22.10.200, and RMC 22.10.210, fails to comply with the requirements of RCW 36.70A.060(2) and RCW 36.70A.172(1); and

WHEREAS, to remedy the deficiencies identified by the Growth Management Hearings Board, amendments to Chapter 22.10 RMC are necessary.

NOW, THEREFORE, BE IT ORDAINED by the City of Richland as follows:

Section 1. Richland Municipal Code Section 22.10.040, entitled Definitions, as first enacted by Ordinance No. 48-93, and last amended by Ordinance No. 40-17A, is hereby amended as follows:

22.10.040 Definitions.

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

“Administrator” means such person as the city manager of the city of Richland shall designate to administer and enforce the provisions of this title.

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

“Adjacent” shall mean any activity located:

A. On a site immediately adjoining a critical area;

B. A distance equal to or less than the required critical area buffer width and building setback, or where the buffer width has yet to be determined, a distance equal to a buffer and setback that would typically be required for the present habitat or species;

C. A distance equal to or less than two hundred fifty (250) feet* from a stream, wetland, channel migration zone or water body;

D. Within the floodway or floodplain; or

E. A distance equal to or less than two hundred (200) feet** from a critical aquifer recharge area.

“Applicant” means the person, party, firm, partnership, corporation, or other entity that proposes any activity that could affect a critical area.

“Best available science” means current scientific information used in the process to designate, protect, or restore critical areas that is derived from a valid scientific process as defined by WAC 365-195-900 through 365-195-925.

“Best management practices (BMPs)” are current and evolving conservation practices, or systems of practices, management or operational measures, or design and construction techniques; or normal and accepted industry standards that are applied to land use activity in a manner which:

A. Controls soil loss and reduces water surface and ground water quality degradation caused by nutrients, wastes, toxics, and sediment;

B. Minimizes and mitigates adverse impacts to the natural chemical, physical and biological environment of the city;

C. Utilizes the city’s natural resources on a long-term, sustainable yield basis;

D. Protects trees, vegetation, and soils designated to be retained during and following site construction and use native plant species appropriate to the site for revegetation of disturbed areas; and

E. Prevents contamination of surface and ground water resources, and protects from impacts to native and other desirable vegetation with BMPs for chemical pesticide, herbicide, and fertilizer applications.

“Buffer” means an area adjacent to a critical area that functions to avoid loss or diminution of the ecologic functions and values of the critical area. Specifically, a buffer may:

A. Preserve the ecologic functions and values of a system including, but not limited to, providing microclimate conditions, shading, input of organic material, and sediments; room for variation and changes in natural wetland, river, or stream characteristics;

providing for habitat for life cycle stages of species normally associated with the resource;

B. Physically isolate a critical area such as a wetland, river, or stream from potential disturbance and harmful intrusion from surrounding uses using distance, height, visual, and/or sound barriers, and generally including dense native vegetation, but also may include human-made features such as wildlife friendly fences and other barriers; and

C. Act to minimize risk to the public from loss of life, well-being, or property damage resulting from natural disasters such as from landslide or flooding.

“Channel Migration Zone” means the area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings. For the purpose of this ordinance, the channel migration zone excludes areas separated from the active river channel by legally existing artificial structures that are likely to restrain channel migration, including, but not limited to, flood control facilities, transportation facilities, and structures built above or constructed to remain intact through the 100-year flood.

“Clearing” means the removal of trees, brush, grass, ground cover, or other vegetative matter from a site which exposes the earth’s surface of the site.

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

“Critical aquifer recharge areas” are areas with a critical recharging effect on aquifers needed for potable water, including areas where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water.

“Critical areas” are areas defined in RCW 36.70A.030(5) including any of the following areas or ecosystems: wetlands; areas with a critical recharging effect on aquifers used for potable water, fish and wildlife habitat conservation areas, frequently flooded areas and geologically hazardous areas.

“Earth/earth material” means naturally occurring rock, soil, stone, sediment, or combination thereof.

“Enhancement” (habitats in general) means the improvement of existing habitat such as by increasing plant density or structural diversity, or by removing nonindigenous or noxious species.

“Enhancement” (wetlands) means the manipulation of the physical, chemical, or biological characteristics of a wetland to heighten, intensify, or improve specific

function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement results in a change in wetland function(s) and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres. [Examples are planting vegetation, controlling nonnative or invasive species, and modifying site elevations to alter hydroperiods.] Activities typically consist of planting vegetation, controlling nonnative or invasive species, modifying site elevations or the proportion of open water to influence hydroperiods, or some combination of these activities.

“Erosion” means wearing away of rock or soil by the gradual detachment of soil and rock fragments by water, wind, ice, and other mechanical and chemical forces.

“Erosion hazard areas” are areas identified by the United States Department of Agriculture Soil Conservation Service as having a severe rill and inter-rill erosion hazard.

“Excavation” means the mechanical removal of earth material.

“Federal manual” or “federal methodology” means the methodology for identifying wetlands in the field as described in the current Federal Manual for Identifying and Delineating Jurisdictional Wetlands.

“Fill” means earth or any other substance or material placed in or on the ground, including earth-retaining structures. In wetlands, it includes any action that raises the elevation or creates dry land.

“Filling” means the act of transporting or placing (by any manner or mechanism) fill material from, to, or on any soil surface, sediment surface, or other fill material.

“Fish and wildlife habitat conservation area” means areas that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range and movement corridors; and areas with high relative population density or species richness. “Fish and wildlife habitat conservation areas” does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of, and are maintained by, a port district or an irrigation district or company.

“Frequently flooded areas” are lands in the floodplain 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 ground water. These areas include, but are not limited to, streams, rivers, and wetland areas where high ground water ponds on the ground surface.

“Functions and values” means the beneficial roles served by critical areas including, but not limited to, water quality protection and enhancement; fish and wildlife habitat; food chain support; flood storage, conveyance and attenuation; ground water recharge and discharge; erosion control; wave attenuation; protection from hazards; historical, archaeological and aesthetic value protection; educational opportunities and recreation.

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

“Grading” means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.

“Habitat management” means management of land to maintain species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created. This does not imply maintaining all habitat or individuals of all species in all cases.

“High impact land use” means land uses that are generally associated with relatively high levels of human activity or disturbance, development of structures, or substantial wetland habitat impacts. Depending on their context, high impact land uses can include, but are not limited to, residential buildings and structures, active recreation areas and facilities, commercial and industrial land uses, buildings and structures, and similar uses and activities which create a significant potential for impacts to wetlands. The context for determining the impact of a land use includes the sensitivity of the wetland, the density and intensity of adjacent development, the amount of impervious surface, the orientation of proposed buildings and structures and other relevant factors as determined in an individual case.

“In-kind mitigation” means replacement of wetlands with substitute wetlands whose characteristics closely approximate those destroyed or degraded by a regulated activity.

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

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

A. Areas delineated by the United States Department of Agriculture Soil Conservation Service as having a severe limitation for building site development;

B. Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the United States Geological Survey or Department of Natural Resources Division of Geology and Earth Resources;

C. Areas with all three of the following characteristics:

1. Areas with slope steeper than 15 percent;
2. Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and
3. Springs or ground water seepage;

D. Areas that have shown movement during the Holocene epoch (from 10,000 years ago to the present) or which are underlain or covered by mass wastage debris of that epoch;

E. Areas with slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;

F. Areas with slopes having gradients steeper than 80 percent subject to rockfall during seismic shaking;

G. Areas potentially unstable as a result of rapid stream incision, stream bank erosion and undercutting by wave action;

H. Areas that show evidence of, or on, an active alluvial fan presently or potentially subject to inundation by debris flows or catastrophic flooding; or

I. Areas with a slope of 40 percent or steeper and with a vertical relief of 10 or more feet except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least 10 feet of vertical relief.

“Low impact land use” means land uses that are typically associated with relatively low levels of human activity, disturbance or development and that are conducted in a manner as to minimize impacts to the buffer. Low impact land uses may include:

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

B. Passive recreation, including walkways or trails located in the outer 25 percent of the buffer area;

C. Educational and scientific research activities, provided prior approval is obtained from the approval authority;

D. Normal and routine maintenance and repair of any existing public or private facilities, provided appropriate measures are undertaken to minimize impacts to the wetland and its buffer and that disturbed areas are restored immediately to a natural condition; or

E. Agricultural land uses that do not create a probable wetland impact.

“Mitigation” means a series of prioritized actions that when achieved in full ensures project impacts will result in no net loss of habitat value or fish and wildlife populations.

“Mitigation” involves actions that proceed in sequence from the highest to the lowest priority as follows:

A. Avoiding impacts to environmentally critical areas by not taking action or parts of actions.

B. Minimizing impact by limiting the degree or magnitude of the action and its implementation.

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

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

E. Compensating for the impact by replacing or providing substitute resources or environments.

While monitoring alone is not considered mitigation for purposes of these regulations, it may be part of a comprehensive mitigation program.

F. Monitoring the hazard or other required mitigation and taking remedial action when necessary.

“Native vegetation” means vegetation indigenous to the area in question.

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

“Priority habitat” means a habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes:

A. Comparatively high fish or wildlife density;

B. Comparatively high fish or wildlife species diversity;

- C. Fish spawning habitat;
- D. Important wildlife habitat;
- E. Important fish or wildlife seasonal range;
- F. Important fish or wildlife movement corridor;
- G. Rearing and foraging habitat;
- H. Important marine mammal haul-out;
- I. Refugia habitat;
- J. Limited availability;
- K. High vulnerability to habitat alteration;
- L. Unique or dependent species; or
- M. Shellfish bed.

A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as oak woodlands or eelgrass meadows or shrub steppe habitat). A priority habitat may also be described by a successional stage (such as old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as a consolidated marine/estuarine shoreline, talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or nonpriority fish and wildlife.

“Priority habitat and species list” means a list published by the Washington Department of Fish and Wildlife, which is a catalog of habitats and species considered to be priorities for conservation and management. Priority species require protective measures for their survival due to their population status, sensitivity to habitat alteration, and/or recreational, commercial or tribal importance. Priority species include state endangered, threatened, sensitive and candidate species; animal aggregations (e.g., heron colonies, bat colonies) considered vulnerable; and species of recreational, commercial or tribal importance that are vulnerable. Priority habitats are habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type (e.g., shrub-steppe) or dominant plant species (e.g., juniper savannah), a described successional stage (e.g., old-growth forest) or a specific habitat feature (e.g., cliffs).

“Priority habitat and species map” means maps of plant cover types/communities. Considered by Washington State Department of Fish and Wildlife to contain priority habitat or wildlife species. PHS is a source of best available science that informs local planning activities and land use applications.

“Qualified professional,” for the purpose of these regulations, shall mean a person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905(4). A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, ecology, engineering, environmental studies, fisheries, geomorphology, or related field, and two years of related work experience.

A. A qualified professional for habitats or wetlands must have a degree in biology, ecology or related field and professional experience related to the subject species. A “qualified wetland specialist” is further defined below.

B. A qualified professional for a geological hazard must be a geotechnical engineer or geologist, licensed in the state of Washington.

C. A qualified professional for critical aquifer recharge areas means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments.

“Qualified wetland specialist” means a person or firm with experience and training in wetland issues, and with experience in performing delineations, analyzing wetland impacts, and recommending wetland mitigation and restoration. Qualifications include:

A. A Bachelor of Science or Bachelor of Arts or equivalent degree in biology, botany, ecology, environmental studies, fisheries, soil science, wildlife or related field, and two years of related work experience, including a minimum of one year of experience delineating wetlands using the Federal Delineation Manual preparing wetland reports. Additional education may substitute for one year of related work experience; or

B. Four years of related work experience and training, with a minimum of two years’ experience delineating wetlands with the Federal Delineation Manual and preparing wetland reports.

“Reestablishment” means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Reestablishment results in a gain in wetland acres (and functions). Activities could include removing fill material, plugging ditches, or breaking drain tiles.

“Regulated activity” means activities ~~occurring in or near and/or potentially affecting a wetland or wetland buffer that are subject to the provisions of this section.~~ Regulated activities generally include including, but are not limited to, any filling, dredging, dumping, or stockpiling, draining, excavation, flooding, construction or reconstruction, driving pilings, obstructing, shading, clearing or harvesting, or any other activity that may impact the functions and values of the nearby critical area as determined by the Administrator.

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

“Restore,” “restoration” or “ecological restoration” means the reestablishment or upgrading of impaired natural or enhanced ecological processes or functions. This may be accomplished through measures including but not limited to revegetation, removal of intrusive structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the area to pre-Columbia Basin Project, aboriginal or pre-European settlement conditions.

“Riparian ecosystem” means the area alongside a waterbody that significantly influences exchanges of energy and matter among terrestrial and aquatic ecosystems. Along streams and rivers, it includes the active channel, channel migration zone, floodplain, and portions of the adjacent uplands that contribute organic matter and shade, provide space for nutrient cycling, and keep pollutants from entering the stream.

“Riparian Management Zone” (RMZ) means the Fish and Wildlife Habitat Conservation Area adjacent to all rivers and streams delineated to protect riparian ecosystem functions and values. Its inner point of measure is the wide of (a) the Ordinary High Water Mark or (b) the outer extent of the Channel Migration Zone. Its width is the greater of (a) 100 feet, (b) one Site Potential Tree Height of a 200-year old tree, and (c) the width needed to reliably remove pollutants as determined through a habitat conservation report.

“Seismic hazard areas” are areas subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction, or surface faulting. One indicator of potential for future earthquake damage is a record of earthquake damage in the past. Ground shaking is the primary cause of earthquake damage in Washington. The strength of ground shaking is primarily affected by: (A) magnitude of an earthquake; (B) distance from the source of an earthquake; (C) type of thickness of geologic materials at the surface; and (D) type of subsurface geologic structure.

“Site” means any parcel or combination of contiguous parcels where the proposed project impacts a wetland(s) or other critical area.

“Site-Potential Tree Height” (SPTH) means the average maximum height of the tallest dominant trees (200 years or more) for a given site class. For most of the City of Richland, soils do not support trees that grow in excess of 100 feet. For the few sites that may grow trees taller than 100 feet, SPTH is determined through a habitat conservation report.

“Slope” means an inclined earth surface, the inclination of which is expressed as the ratio of horizontal distance to vertical distance.

“Stormwater” means runoff during and following precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, pipes and other features of a stormwater drainage system into a defined surface water body or a constructed treatment, evaporation or infiltration facility.

“Structural diversity” means the relative degree of diversity or complexity of vegetation in a habitat area as indicated by the stratification or layering of different plant communities (e.g., ground cover, shrub layer, and tree canopy); the variety of plant species; and the spacing or pattern of vegetation.

“Structure” means a permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels.

“Substrate” means the soil, sediment, decomposing organic matter or combination of those located on the bottom surface of the wetland.

“Wetland” or “wetlands” refers to 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 nonwetland 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 nonwetland areas to mitigate the conversion of wetlands or wetland areas preserved as mitigation for the conversion of wetlands.

“Wetland buffer area” means a naturally vegetated and undisturbed, enhanced or revegetated zone surrounding a natural, restored or newly created wetland that is an integral part of a wetland ecosystem, and protects a wetland from adverse impacts to the integrity and value of the wetland. Wetland buffers serve to moderate runoff volume and flow rates; reduce sediment, chemical nutrient and toxic pollutants; provide shading to maintain desirable water temperatures; provide habitat for wildlife; and protect wetland resources from harmful intrusion.

“Wetland delineation” means a delineation done in accordance with the approved federal wetland delineation manual and applicable regional supplements as provided for in WAC 173-22-035.

“Wetland determination” means a report prepared by a qualified professional that identifies, characterizes and analyzes potential impacts to wetlands consistent with

applicable provisions of these regulations. A determination does not include a formal delineation

Footnotes to Definitions:

**“Adjacent” (C) - The distance of two hundred fifty (250) feet is based on maximum wetland buffer.

**“Adjacent” (E) - The distance of two hundred (200) feet is a suggested distance to ensure that activities within the critical aquifer recharge area are included under this Chapter, even when the exact boundaries of the critical aquifer recharge area are not known at the time of application.

Section 2. Richland Municipal Code Section 22.10.185, entitled Fish and wildlife habitat conservation areas, as first enacted by Ordinance No. 40-17, and last amended by Ordinance No. 40-17A, is hereby amended as follows:

22.10.185 Fish and wildlife habitat conservation areas.

A. Fish and wildlife habitat conservation areas include the following:

1. Areas where state or federal designated endangered, threatened, and sensitive species have a primary association.

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

b. State designated endangered, threatened and sensitive species are those fish, wildlife and plant species native to the state of Washington identified by the State Department of Fish and Wildlife and/or State of Washington Natural Heritage Program, that are in danger of extinction, threatened to become endangered, vulnerable, or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats. The State of Washington’s Department of Fish and Wildlife and/or Natural Heritage Program maintains the most current listings and should be consulted as necessary for current state listing status.

2. State priority habitats and areas associated with state priority species.

a. State of Washington Priority Habitats and Species are considered priorities for conservation and management. The State of Washington’s Department of Fish and Wildlife should be consulted for current listing of priority habitats and species.

3. Habitats and species of local importance. The City of Richland hereby adopts by reference those Priority Habitats and Species considered priorities for conservation and management identified by the State Department of Fish and Wildlife and State of Washington Natural Heritage Program as now exist or as may be amended.

4. In addition to the Priority Habitats and Species recognized by WDFW and/or State of Washington Natural Heritage Program, a process is provided for listing other habitats and species that are important locally to the people of Richland. This action may be initiated at the request of the Washington State Department of Fish and Wildlife, other government agency, city staff, non-profit 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 upon Best Available Science and considering:
 - 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;
- f. Name and address of the nominator, along with a list of property owners and mailing addresses for each property mapped as containing habitat and/or species;
- g. Other supporting documentation (as determined by the Administrator);
- h. SEPA Checklist;
- i. Fee as established by the City of Richland Fee Schedule.

Submitted proposals shall be reviewed by city staff as a Type IV legislative action pursuant to RMC 19.20.010(D)(2) and Chapter 19.90 RMC. Suggested amendments to this section of the Critical Areas regulations shall result in amendment no more often than once each calendar year with the deadline for submittal being January 31st. Copies of the proposal shall be submitted to 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 as part of the public comment period. 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.

25. The areas listed as a national wildlife refuge, national park, natural area preserve or any preserve or reserve designated under WAC 332-30-151;

~~36~~. The Yakima River Delta area, including Lake Wallula wildlife habitat areas currently managed by the U.S. Army Corps of Engineers, the Chamna Natural Preserve, Bateman Island;

~~47~~. The Hanford Islands in the Columbia River managed by the U.S. Fish and Wildlife Service;

~~58~~. Amon Creek Natural Preserve;

~~69~~. Badger Mountain Natural Preserve;

~~710~~. Category I wetlands as defined in RMC 22.10.100;

~~811~~. State nature area preserves or natural resource conservation areas and state wildlife areas;

~~912~~. Documented habitat, other than accidental presence, of threatened or endangered species;

~~4013~~. Documented habitat, other than accidental presence, of regional or national significance for migrating birds;

~~4414~~. Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat;

~~4215~~. Waters of the state; ~~and~~

~~4316~~. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity.

B. Fish and wildlife habitat conservation areas are intended to:

1. Create a system of fish and wildlife habitat with connections between larger habitat blocks and open spaces, integrating with open space corridor planning where appropriate;

2. Limit the level of human activity within such areas that is appropriate for certain areas and habitats, including presence of roads and level of recreation type (passive or active recreation);

3. Protect riparian ecosystems including potential for restoring lost or impaired salmonid habitat;

4. Evaluate land uses that may negatively impact these areas, or conversely, that may contribute positively to their function;

5. Establish buffer zones around these areas to separate incompatible uses from habitat areas;

6. Establish or enhance nonregulatory approaches in addition to regulatory methods to protect fish and wildlife habitat conservation areas.

Section 3. Richland Municipal Code Section 22.10.190, entitled Fish and wildlife habitat conservation area inventory maps, as first enacted by Ordinance No. 48-93, and last amended by Ordinance No. 40-17A, is hereby amended as follows:

22.10.190 Fish and wildlife habitat conservation area inventory maps.

To determine the location and extent of fish and wildlife habitat conservation areas, the city shall use best available science, including current information contained in priority habitats and species maps as maintained by the Washington State Department of Fish and Wildlife. These maps shall be used as a general guide only for the assistance of property owners and other interested parties; boundaries are generalized. The actual type, extent, and boundaries of habitat areas shall be determined by a qualified professional according to the procedures, definitions, and criteria established by this article. In the event of any conflict between the habitat location or type shown on maps and the criteria or standards of this article, the criteria and standards resulting from the field investigation shall control.

Recovery plans and management recommendations for many of these species are available from the United States Fish and Wildlife Service, the National Marine Fisheries Service and the Washington State Department of Fish and Wildlife. Additional information is also available from the Washington State Department of Natural Resources, Natural Heritage Program, and Aquatic Resources Program.

It is also possible that unmapped areas may include priority species priority habitats or species (PHS), endangered, threatened or sensitive (ETS) species, or habitats and species of local importance (HSLI). If such a species is known to exist within an unmapped area, the type, extent and boundaries of this area shall be determined by a qualified professional.

Section 4. Richland Municipal Code Section 22.10.200, entitled Requirements for habitat conservation area reports, as first enacted by Ordinance No. 48-93, and last amended by Ordinance No. 40-17A, is hereby amended as follows:

22.10.200 Requirements for habitat conservation area reports.

When development is proposed within a fish and wildlife habitat conservation area or its buffer, or where development is proposed to be located adjacent to a fish and wildlife habitat conservation area or its buffer or close enough to the FWHCA so as to likely impact critical area ecosystem functions and values, a habitat conservation report shall be prepared consisting of the following:

A. The report shall be prepared by a qualified professional using the best available science;

B. The area addressed in any report for a fish and wildlife habitat conservation area shall include the project area and adjacent lands within 300 feet of the project boundaries to account for potential buffers that may not be accurately mapped at the

time of application. Further the report shall identify all habitat conservation areas, shorelines, floodplains, other critical areas and related buffers;

C. A habitat conservation report shall include an assessment to evaluate the presence or absence of priority habitat. At a minimum the habitat assessment shall include:

1. Detailed description of vegetation on and adjacent to the project area; including the existence or non-existence of plant species native to the state of Washington identified by the State of Washington Natural Heritage Program that are in danger of extinction, threatened to become endangered, vulnerable, or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats;

2. Identification of any priority species and habitats (PHS) or any endangered, threatened, sensitive or candidate species and any habitat or species of local concern that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the protected habitat or use of the site by the species;

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

4. A discussion of measures, including avoidance, minimization and mitigation proposed to preserve existing habitats or restore any habitat that was degraded prior to the current proposed land use activity and to be conducted in accordance with RMC 22.10.220 (mitigation sequencing);

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

6. When warranted, the administrator may require detailed surface and subsurface hydrologic features both on and adjacent to the site;

D. Habitat conservation area reports shall be forwarded to the Washington Department of Fish and Wildlife and local Native American Indian Tribes to provide them with an opportunity to comment on the adequacy and accuracy of the report;

E. The administrator may waive the requirement for the preparation of a habitat conservation area report upon a determination that by reason of previous development that the proposed project site does not provide functional habitat. Such waiver shall be made in writing and a copy shall be provided to the Washington State Department of Fish and Wildlife.

Section 5. Richland Municipal Code Section 22.10.210, entitled Fish and wildlife habitat conservation area – Performance standards, as first enacted by Ordinance No. 48-93, and last amended by Ordinance No. 40-17A, is hereby amended as follows:

22.10.210 Fish and wildlife habitat conservation area – Performance standards.

Development or any regulated activity occurring within a designated habitat conservation area or within its respective protection buffer, or development or any regulated activity proposed to occur adjacent to, or close enough to, a habitat conservation area so as to likely impact critical area ecosystem functions and values, shall only be permitted in accordance with the conditions of an approved habitat conservation area report. Such report shall be based on the following standards using the best available science:

- A. Consider habitat in site planning and design;
- B. Locate buildings and structures in a manner that preserves and minimizes adverse impacts to important habitat areas, including use of bird-friendly building design and use of dark sky lighting standards;
- C. Integrate retained habitat into open space and native plantings, consistent with the provisions of all open space and landscaping requirements;
- D. Activity within or close to a habitat conservation area shall not result in the degradation of the functions and values of the habitat;
- E. Nonindigenous species shall not be introduced into a habitat conservation area;
- F. Contiguous corridors through a project area shall be maintained. Measures necessary to mitigate impacts within a habitat conservation area shall attempt to achieve contiguous functioning habitat corridors in order to minimize the isolating effects of development on habitat;
- G. Identify habitat contiguous to other habitat areas, open space or landscape areas to contribute to a continuous system or corridor that provides connections to adjacent habitat areas and allows movement of wildlife;
- H. Use native species in any landscaping of disturbed or undeveloped areas and in any enhancement of habitat areas;
- I. Emphasize heterogeneity and structural diversity of vegetation in landscaping and food producing plants beneficial to wildlife;
- J. Width of riparian corridors shall be in accordance with buffer widths suggested by BAS, including WDFW publication *Riparian Ecosystems, Volume 2: Management Recommendations*, May 2018, or as revised. Riparian corridors shall also meet the

minimum requirements as established in RMC Title 26 and wetland buffer requirements as established in RMC 22.10.110;

K. Activities within a habitat conservation area shall be conditioned as identified in the habitat conservation area report to avoid, minimize, or mitigate potential adverse impacts. Conditions shall include protective buffers based on the State of Washington Department of Fish and Wildlife Management recommendations for Washington's priority species modified for local conditions and the recommendations of the Department of Fish and Wildlife biologists and may include, but are not limited to, the following measures:

1. Establishment of undisturbed habitat areas;
2. Staking of undisturbed habitat areas prior to any construction, including clearing, grading and filling taking place on site;
3. Fencing of undisturbed habitat areas in a manner consistent with the provisions of RMC 22.10.115(H);
4. Temporary erosion and sedimentation controls, pursuant to an approved plan, shall be implemented during construction;
5. Preservation of critically important vegetation;
6. Supplemental planting of native tree or shrub cover;
7. Removal and/or control of any noxious or undesirable species of plants and animals;
8. Preservation of significant trees and/or snags, preferably in groups, consistent with achieving the objectives of these standards;
9. Replanting of disturbed areas and/or areas where noxious weed species were removed with native vegetation types, including ongoing plans for weed control and irrigation as appropriate;
10. Limitation of access to an identified habitat area, including fencing to deter unauthorized access;
11. Seasonal restriction on construction activities;
12. Implementation of a schedule for periodic review of completed mitigation measures for a specified time period;

13. Posting of a bond or other financial surety to ensure completion and success of proposed mitigation measures. Such bond or other security device shall be required to assure successful establishment of required planting for an appropriate monitoring period. The amount of the bond or other security device shall equal 125 percent of the cost of the mitigation project for a period of five years. The administrator may agree to reduce the bond in phases in proportion to work successfully completed over the period of the bond.

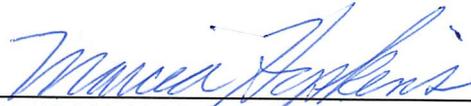
Section 6. This ordinance shall take effect the day following its publication in the official newspaper of the City of Richland.

PASSED by the City Council of the City of Richland, Washington, at a regular meeting on the 19th day of February, 2019.



ROBERT J. THOMPSON
Mayor

ATTEST:



MARCIA HOPKINS, City Clerk

APPROVED AS TO FORM:



HEATHER KINTZLEY, City Attorney

Date Published: February 24, 2018