

**ORDINANCE NO. 821**

**AN ORDINANCE OF THE CITY COUNCIL OF TONASKET, WASHINGTON, REPEALING AND REPLACING CHAPTER 18.06 OF THE TONASKET MUNICIPAL CODE; CONTAINING A SEVERABILITY PROVISION; AND SETTING AN EFFECTIVE DATE.**

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**WHEREAS**, the City of Tonasket ("City") has adopted a Comprehensive Plan and zoning or development regulations pursuant to RCW 35A.63; and

**WHEREAS**, all amendments to the City's zoning code and Comprehensive Plan are to be adopted, certified, and recorded or filed in accordance with RCW 35A.63; and

**WHEREAS**, the Tonasket Planning Commission held open a public meeting On October 20, 2020 wherein amendments to the repeal and replacement of Chapter 18.06 of the Tonasket Municipal Code (Environment Code) and the Introduction, Population and Land Use Element and associated Maps of City's Comprehensive Plan were on the agenda for discussion; and

**WHEREAS**, the proposed repeal and replacement of Chapter 18.06 TMC is being done as part of compliance with the periodic update provisions of the Growth Management Act; and

**WHEREAS**, the proposed revisions to the City's Comprehensive Plan and Implementing Regulations were submitted to the Department of Commerce for the required 60 day on September \_\_, 2020; and

**WHEREAS**, the comments were received during the 60-day review process; and

**WHEREAS**, the Tonasket Planning Commission held a duly advertised public hearing on November 17, 2020, to which interested persons were invited to comment on the proposed repeal and replacement of Chapter 18.06 TMC and Comprehensive Plan; and

**WHEREAS**, following the public hearing, the Planning Commission unanimously passed a motion to recommend that the Council adopt an

ordinance to repeal and replace Chapter 18.06 TMC; and

**WHEREAS**, the City Council held a public hearing on December 8, 2020 to review the record, take testimony and consider approval of the proposed repeal and replacement of Chapter 18.06 TMC; and

**WHEREAS**, the proposed amendments were subject to review under the State Environmental Policy Act and a Determination of Non-Significance was issued which was not commented on or appealed; and

**WHEREAS**, the City Council has reviewed the findings of the Planning Commission and the Planning Commission's recommendations contained therein; and

**WHEREAS**, the City Council concurs in the findings and recommendation of the Planning Commission and City Staff, that there will be no significant adverse environmental impact as a result of the proposed repeal and replacement of Chapter 18.06; and

**WHEREAS**, adoption of the replacement Chapter 18.06 will complete the City's requirements under the Growth Management Act for periodic review and update of the zoning regulations and comprehensive plan;

**WHEREAS**, adoption of this Ordinance is in the best interest of the health, safety, and welfare of the citizens of the City; now, therefore,

**THE CITY COUNCIL OF THE CITY OF TONASKET, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**Section 1.** Chapter 18.06 as it presently exists (see Exhibit A) is repealed in its entirety.

**Section 2.** A new Chapter 18.06 (see Exhibit B) is hereby adopted.

**Section 3.** The decision of the City Council to amend the City's Environment Code is based upon a State Environmental Policy Act (SEPA) Determination of Non-significance (DNS) and upon the findings and recommendation of the City Planning Commission.

**Section 4.** Pursuant to RCW 36.70A.106, this Ordinance shall be transmitted to the Washington State Department of Commerce.

**Section 5.** If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

**Section 6.** The City Clerk is hereby authorized to publish a summary of this Ordinance consisting of the title.

**Section 7.** This ordinance shall become effective from and after its passage by the Council, approval by the Mayor, and publication as required by law.

**PASSED BY THE CITY COUNCIL** this \_\_\_\_\_ day of \_\_\_\_\_ 2020.

**APPROVED:**

\_\_\_\_\_  
**Marylou Kriner, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Alice J. Attwood, City Clerk-Treasurer**

**APPROVED AS TO FORM:**

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**Michael D. Howe, City Attorney**

## Chapter 18.06 CRITICAL AREAS

Sections:

<b>18.06.010</b>	<b>Purpose. <i>EDITED</i></b>
<b>18.06.015</b>	<b>Applicability. <i>EDITED, RENUMBERED TO 18.06.015</i></b>
<b>18.06.020</b>	<b>Exemptions. <i>MOVED FROM 18.06.050</i></b>
<b>18.06.025</b>	<b>Public agency and utility exemption. <i>NEW SECTION 18.06.025</i></b>
<b>18.06.030</b>	<b>Reasonable use exemption. <i>EDITED CHANGED TO 18.06.030</i></b>
<b>18.06.033</b>	<b>Reference maps and materials. <i>NEW SECTION 18.06.033 WITH PORTIONS OF OLD 18.06.030</i></b>
<b>18.06.035</b>	<b>Application and review process. <i>NEW SECTION 18.06.035 WITH PORTIONS OF OLD 18.06.030</i></b>
<b>18.06.037</b>	<b>General provisions and standards. <i>EDITED AND MOVED FROM 18.06.030</i></b>
<b>18.06.040</b>	<b>Critical areas report and mitigation. <i>NEW SECTION WITH PORTIONS OF OLD 18.06.030</i></b>
<b>18.06.043</b>	<b>Mitigation requirements. <i>NEW SECTION WITH PORTIONS OF OLD 18.06.030</i></b>
<b>18.06.045</b>	<b>Drainage and erosion control plan. <i>NEW SECTION 18.06.045</i></b>
<b>18.06.047</b>	<b>Geotechnical report. <i>NEW SECTION 18.06.047</i></b>
<b>18.06.050</b>	<b>Grading and excavation plan. <i>NEW SECTION 18.06.050</i></b>
<b>18.06.055</b>	<b>Permit conditions. <i>NEW SECTION WITH PORTIONS OF OLD 18.06.030</i></b>
<b>18.06.060</b>	<b>Surety/bonding. <i>NEW SECTION WITH PORTIONS OF OLD 18.06.030</i></b>
<b>18.06.070</b>	<b>Aquifer recharge areas. <i>EDITED</i></b>
<b>18.06.090</b>	<b>Fish and wildlife habitat conservation areas. <i>EDITED</i></b>
<b>18.06.110</b>	<b>Wetlands. <i>EDITED</i></b>
<b>18.06.130</b>	<b>Frequently flooded areas. <i>EDITED</i></b>
<b>18.06.150</b>	<b>Geologically hazardous areas. <i>EDITED</i></b>
<b>18.06.160</b>	<b>Enforcement. <i>NEW SECTION 18.06.160 WITH PORTIONS OF OLD 18.06.030</i></b>

### **18.06.010 Purpose.**

The purpose of this chapter is to regulate development in critical areas as required by the Growth Management Act as it now exists or hereinafter amended to protect these areas and their functions and values in a manner that also allows reasonable use of private property. This chapter is intended to:

- A. Implement the Tonasket comprehensive plan and the requirements of the Growth Management Act; and
- B. Protect critical areas, in accordance with the Growth Management Act and through the application of best available science, as determined according to WAC 365-195-900 through 365-195-925, and in consultation with state and federal agencies and other qualified professionals; and
- C. Protect designated critical areas lying outside of the jurisdiction of the city of Tonasket shoreline master program (SMP); and
- D. Protect the general public, resources and facilities from injury, loss of life, property damage or financial loss due to flooding, erosion, landslides, or steep slopes failure; and

- E. Protect unique, fragile and valuable elements of the environment, including ground and surface waters, wetlands, and fish and wildlife and their habitats; and
- F. Meet the requirements of the National Flood Insurance Program and maintaining Tonasket as an eligible community for federal flood insurance benefits; and
- G. Prevent cumulative adverse environmental impacts to water quality and availability, wetlands, ground water, rivers, streams and fish and wildlife habitat; and
- H. Provide flexibility and attention to site specific characteristics, so as to ensure reasonable use of property; and
- I. Provide appropriate guidance and protection measures for addressing the needs and concerns associated with resource lands and critical areas that help define the quality of life; and
- J. Encourage the retention of open space and development of recreational opportunities, conserving fish and wildlife habitat, and increasing access to natural resource lands and water; and
- K. Implement applicable mandated federal and state regulations. (Ord. 746 § 2 (Exh. A), 2014).

#### **18.06.015 Applicability.**

The provisions of this chapter shall apply to all development activities in designated critical areas outside of shoreline jurisdiction. Critical areas lying within the jurisdiction of the city of Tonasket shoreline master program (SMP) shall be regulated under the provisions of said SMP.

- A. All land uses and/or development permit applications on all lots or parcels within the city that lie within designated critical areas (as identified on Maps III-3 through III-9 in the map appendix to the comprehensive plan) shall comply with the provisions of this chapter. No action shall be taken by any person that results in any alteration of any critical area except as consistent with the purposes, objectives and intent of this chapter.
- B. Where two or more types of critical areas overlap, requirements for development shall be consistent with the standards for each critical area.
- C. Where it is determined that a designated critical area is located within the shoreline jurisdiction, the provisions of the shoreline master program will be used to provide protection to that particular critical area(s). However, any standards found in this chapter may also be applied to a proposal as optional and/or supplemental items to the provisions of the shoreline master program.
- D. These critical areas regulations shall apply concurrently with review conducted under the State Environmental Policy Act (SEPA), as locally adopted. Any conditions required pursuant to this chapter shall be included in the SEPA review and threshold determination.
- E. The city shall maintain reference maps that provide information on the general locations of critical areas, alerting the public and city officials of the potential presence of critical areas. Since boundaries are generalized, the application of these regulations and the actual type, extent and boundaries of critical areas shall be determined and governed by the classifications contained in the city of Tonasket comprehensive plan. In the event of any conflict between the critical area location or designation shown on the city's maps and the criteria and standards established herein, or the site-specific conditions, the criteria, standards and/or site-specific conditions shall prevail.

F. If a permit approval is requested for a development proposal that is located within or within 100 feet of a critical area designated on the generalized reference maps, the city shall review said proposal to determine the applicability of the regulations herein. The city may require additional analysis be provided by the applicant to assist in making this determination. (Ord. 746 § 2 (Exh. A), 2014).

#### **18.06.020 Exemptions.**

The activities listed below are exempt from the provisions of this chapter. Exempt activities shall be conducted using all reasonable methods to avoid impacts to critical areas. Exemption from the regulations herein shall not be considered permission to degrade a critical area or ignore risks from natural hazards. Incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity shall be restored and/or rehabilitated at the responsible party's expense.

A. Emergency construction necessary to protect life or property from immediate damage by the elements. An emergency is an unanticipated event or occurrence which poses an imminent threat to public health, safety, or the environment, and which requires immediate action within a time too short to allow full compliance. Once the threat to the public health, safety, or the environment has dissipated, the construction undertaken as a result of the previous emergency shall then be subject to and brought into full compliance with this chapter and any subsequent amendments; repairs and restorations resulting from emergency construction must commence no later than three years following the time the threat has dissipated and may be subject to mitigation provisions of this chapter;

B. Normal Maintenance or Repair of Existing Legal Buildings, Structures, Roads or Development, Including Damage by Accident, Fire or Natural Elements. Normal repair of buildings and structures involves restoring to a state comparable to the original condition, including the replacement of walls, fixtures and plumbing; provided, that the value of work and materials in any twelve-month period does not exceed twenty-five percent of the value of the structure prior to such work as determined by using the fair market value for such structure as established by an appraisal or realtor's market analysis provided by the applicant if requested by the city and the most recent ICBO construction tables, the repair does not expand the number of dwelling units in a residential building, the building or structure is not physically expanded, and, in the case of damaged buildings and structures, a complete application for repair is accepted by the city within six months of the event and repair is completed within the terms of the permit.;

C. Existing and ongoing agricultural activities. The activities cease to be existing when the area on which they were conducted has been converted to a nonagricultural use or has lain idle for more than five years, unless the idle land is registered in a federal or state soils conservation program. Activities which bring an area into agricultural use are not part of an ongoing activity;

D. Passive outdoor recreational activities including fishing, hunting, bird watching or walking/hiking, nonmotorized boating and canoeing;

E. Low intensity, passive impact of educational and scientific research;

F. Site investigative work necessary for land use application submittals such as surveys, soil logs, percolation tests and other related activities. In every case, critical area impacts should be minimized and disturbed areas shall be immediately restored;

G. Routine maintenance of existing landscaping, within a resident's lot boundaries, including pruning, mowing, removal of diseased trees or other diseased vegetation and replacement of individual plants when necessary to maintain a unified landscape theme; and

H. Control of noxious weeds that are included on the state noxious weed list (Chapter 16-750 WAC) by the recommended methods of the county agricultural extension agent. (Ord. 746 § 2 (Exh. A), 2014).

**18.06.025 Public agency and utility exception.**

A. If application of this chapter would prohibit a development proposal by a public agency or public utility, the agency or utility may apply for an exception pursuant to this section. To qualify for an exception the agency or utility must demonstrate the following criteria:

1. Criteria for Exception.

- a. That there is no other practical alternative to the proposed development which has less impact on critical areas;
- b. That the application of this chapter would unreasonably restrict the ability to provide necessary utility services to the public;
- c. That the proposed use does not pose a threat to the public health, safety or welfare;
- d. That the proposal protects critical areas functions and values to the extent possible and provides for mitigation in accord with the provisions of this title; and
- e. The proposal is consistent with other applicable regulations and standards.

B. A request for exception shall be submitted to the city with the application materials for the particular development proposal. The request shall contain explanation as to how the criteria are satisfied. The administrator may require additional information or studies to supplement the exception request.

**18.06.030 Reasonable use exemption.**

The city may modify the requirements of this chapter in specific cases when necessary to allow reasonable use of an applicant's property. To qualify for such relief the applicant must demonstrate all of the following:

- A. That no other reasonable use can be made of the property that will have a lesser adverse impact on the critical area and adjoining and neighboring lands;
- B. That the proposed use does not pose a threat to the public health, safety or welfare;
- C. Any alteration is the minimum necessary to allow reasonable use of the property; and
- D. The inability of the proponent to derive reasonable use of the property is not the result of actions by the applicant after the effective date of this chapter.
- E. Any alteration of a critical area approved under this section shall be subject to appropriate conditions and will require mitigation under an approved mitigation plan.

A request for a reasonable use exception shall be submitted to the city with the application materials for the particular development proposal. The application shall be supplemented with an explanation as to

how the reasonable use exception criteria are satisfied. The city may require additional information or studies to supplement the reasonable use exception request.

The administrator shall issue a written decision on the application with written findings of facts and conclusions to support said decision. (Ord. 746 § 2 (Exh. A), 2014).

#### **18.06.033 Reference maps and materials.**

The city shall maintain reference maps and materials that provide information on the general locations of critical areas. Since boundaries on the critical area designation maps contained in the map appendix to the comprehensive plan are generalized, the application of this chapter and the actual type, extent and boundaries of critical areas shall be determined and governed by the classification and designation process established for each critical area in the Tonasket Comprehensive Plan. In the event of any conflict between the critical area location or designation shown on the on the referenced maps and the criteria and standards established in the Tonasket Comprehensive Plan, or the site-specific conditions, the criteria, standards and/or site-specific conditions shall prevail. The administrator of this chapter shall have the authority to reference new and updated scientific publications and reports as they become available. Reference maps and inventories shall include, but are not limited to, the following:

- A. Comprehensive Plan Map III-6 - Wetlands Map, based upon U.S. Fish and Wildlife Service National Wetlands Inventory;
- B. Comprehensive Plan Map III-5 - Fish and wildlife habitat area maps, based upon Washington Department of Fish and Wildlife priority habitats and species data;
- C. Soils data and maps, based upon Natural Resource Conservation Service 2009 Web Soil Survey;
- D. U.S.G.S. 7.5 minute series topographic quadrangle maps;
- E. Aerial photos;
- F. Comprehensive Plan Map III-8A - Steep slopes map, based on Natural Resource Conservation Service 2009 Web Soil Survey;
- G. Comprehensive Plan Map III-8 - Erosion (geologically) Hazard Areas, based on Natural Resource Conservation Service 2009 Web Soil Survey;
- H. Comprehensive Plan Map III-8B - Building Limitations Areas, based on Natural Resource Conservation Service 2009 Web Soil Survey;
- I. Comprehensive Plan Map III-3 - Wellhead Protection Areas, based on Department of Health Well Head Protection Area Map;
- J. Comprehensive Plan Map III-4 - Critical Aquifer Recharge Areas, based on Natural Resource Conservation Service 2009 Web Soil Survey;
- K. Comprehensive Plan Map III- 7 - Flood Hazard Map, based on Flood Insurance Rate Map and Study Community Panel H&I-01, Effective Date January 5, 1978;
- L. City of Tonasket Comprehensive Plan maps (see Map Appendix);
- M. City of Tonasket Shoreline Master Program and accompanying maps;
- N. Washington State Wetlands Identification and Delineation Manual (DOE, March 1997), as revised;



- O. Washington State Wetlands Rating System for Eastern Washington (Ecology Publication #04-06-015, or as revised and approved by Ecology);
- P. Management recommendations for Washington's Priority Habitats and Species, May 1991, as amended;
- Q. Management recommendations for Washington's Priority Habitats – Riparian, December 1997, amended;
- R. Federal Wetlands Delineation Manual (1987);
- S. Priority Habitats and Species List, July 1999, as amended;
- T. U.S. Army Corps of Engineers (2006), Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region (Version 2.0), as amended;
- U. Wetlands in Washington State – Volume 1: A Synthesis of the Science, Ecology Publication No. 05-06-006;
- V. Wetlands in Washington State – Volume 2: Guidance for Protecting and Managing Wetlands, Ecology Publication No. 05-06-008; and
- W. Approved special reports previously completed for a subject property.

Each of the above-referenced maps and inventories shall include the reference maps and inventories listed, as well as revised, amended or updated versions.

#### **18.06.035 Application and Review process.**

Anyone proposing a land use activity or development within and/or within 100 feet of a designated critical area shall notify the city; additionally, applications for all development permits will ask whether such areas are within 100 feet of a critical area. The provisions of this chapter shall be applied to any such proposals. Development permit applications shall provide appropriate information on forms provided by the city, including without limitation the information described in this section as well as specific requirements of each critical area. Additional reports or information to identify potential impacts and mitigation measures to critical areas may be required if deemed necessary. The review process shall proceed as follows:

- A. Preapplication Meeting/Site Visit. Upon receiving a land use or development proposal, the administrator shall schedule a preapplication meeting and/or site visit with the proponent for purposes of a preliminary determination whether the proposal is likely to result in impact to the functions and values of critical areas or pose health and safety hazards. At this meeting, the administrator shall discuss the requirements of this chapter and other applicable regulations; provide critical areas maps and other available reference materials; outline the review and permitting processes; and work with the proponent to identify any potential concerns with regards to critical areas.
- B. Determination of project type.
  - 1. Minor Development. Projects processed by the city according to the provisions governing Type I or Type II permits (see Chapter 19.05 TMC) within a designated critical area or its buffer shall disclose, at a minimum, the following information on a site plan drawn to scale:
    - a. The location and boundaries of the critical area;

- b. (The location and dimensions of all existing and proposed buildings, roads and other improvements, and their physical relationship to the critical area and associated buffers; and
  - c. The location and type of any proposed buffers, including the identification of any other protective measures.
2. Major Development. Projects processed by the city according to the provisions governing Type III or Type IV permits (see Chapter 19.05 TMC) within a designated critical area or its buffer shall provide the following information, in addition to the information described in subsection (a) of this section:
- a. Critical area boundary survey and ranking evaluation or designation as defined in the Tonasket Comprehensive Plan;
  - b. Critical area management and mitigation plan as defined within this chapter;
  - c. A drainage and erosion control plan as defined within this chapter; and
  - d. A grading and excavation plan as defined within this chapter.

C. Application and SEPA Checklist. For all nonexempt proposals, the proponent shall submit all relevant land use/development applications, together with a SEPA checklist. The administrator may waive the requirement for a SEPA checklist if the proposal is categorically exempt under SEPA regulations and is unlikely to yield information useful in the review process.

D. Determination of Need for Critical Areas Report. Based upon the preapplication meeting, application materials, and the SEPA checklist, the administrator shall determine if there is cause to require a critical areas report. In addition, the administrator may use critical areas maps and reference materials, information and scientific opinions from appropriate agencies, or any reasonable evidence regarding the existence of critical area(s) on or adjacent to the site of the proposed activity. If no critical areas are found to exist, the administrator shall document notifying the applicant of this fact.

E. Documentation and Notification. The administrator shall document the preapplication meeting and/or site visit, application and SEPA threshold determination, and any other steps or findings that inform the determination whether a critical areas report shall be required. The applicant shall receive notice of the determination and any findings which support it.

F. In cases where the administrator does not have adequate knowledge or training to determine the sufficiency and accuracy of information contained within a critical area's report or mitigation plan, said reports or plans shall be submitted to the following agencies for review as specified in the Small Communities Critical Areas Ordinance Implementation Guidebook Appendix A: State Agency Contact Information:

- a. Department of Commerce;
- b. Department of Ecology;
- c. Department of Fish and Wildlife;
- d. Department of Natural Resources.

**18.06.037 General provisions and standards.**

A. In the event of any conflict between these regulations and any other regulations, that which provides greater protection to the critical area(s) shall apply. The provisions contained herein shall be the minimum requirements and shall be liberally interpreted to serve the purposes of this chapter. The presence of any known critical areas on or within 100 feet of property that is the subject of a development permit shall be identified by the applicant in the application materials submitted to the city.

B. Definitions. Definitions for critical areas are included in Chapter 17.04 TMC.C. Standards. The following standards shall apply to the activities identified below, in addition to the general standards for provided for each critical area.

1. Boat launch facilities. Construction of a boat launch facility may be authorized subject to the following standards:
  - a. The facility shall be in compliance with the requirements of the Shoreline Master Program; and
  - b. The facility and landward access shall not significantly alter the existing critical area or buffer vegetation; and
  - c. For all land divisions, facilities shall be designed, designated and constructed for joint and/or community use.
2. Road Repair and Construction. When no other practical alternative exists, public or private road repair, maintenance, expansion or construction may be authorized within a critical area buffer, subject to the following minimum standards:
  - a. The road shall serve multiple properties; and
  - b. No unmitigated impacts to the designated critical area or buffer area shall result from the repair, maintenance, expansion or construction of any public or private road; and
  - c. The road shall provide for the location of public utilities, pedestrian or bicycle easements, viewing points, etc.; and
  - d. Road repair and construction shall be the minimum necessary to provide safe traveling surfaces.
3. Major Developments. All major developments processed by the city according to the provisions governing Type III or Type IV permit (see Chapter 19.05 TMC) authorized within a critical area or critical area buffer shall comply with the following minimum standards:
  - a. Inundated and/or submerged lands shall not be used in calculating minimum lot area for proposed lots; and
  - b. Only fifty percent of the total wetlands on the property, other than inundated and/or submerged lands, shall be used in calculating minimum lot area for proposed lots. All wetland buffers may be included in the calculation of minimum lot area for proposed lots; and
  - c. All plats shall disclose the presence on each residential lot one building site, including access, that is suitable for development and which is not within the designated critical area or its associated buffer; and

- d. All designated critical areas and their proposed buffers shall be clearly identified on all final plats, maps, documents, etc.; and
  - e. Designated critical areas and their associated critical area buffers, when needed for long term protection, shall be designated and disclosed on the final plats, maps, documents, etc., as open space tracts, nonbuildable lots and buffer areas or common areas, with ownership and control transferred to a homeowner's association. Designated critical areas and associated critical area buffers may alternatively be designated and disclosed on the final plats, maps, documents, etc., as an easement or covenant encumbering the property.
4. Surface Water Management. When no other practical alternative exists, surface water management activities may be authorized within a critical area, subject to the following minimum standards:
- a. Critical areas may be used for retention/detention facilities, subject to all of the following criteria:
    - i. The functions and water quality of the critical area or buffer shall not be adversely impacted; and
    - ii. The rate of flow into or the hydroperiod of a wetland shall not increase above natural flow rates; and
    - iii. All surface water discharged from impervious surfaces shall be treated prior to entering a critical area or buffer.
  - b. New surface water discharges to critical areas from detention facilities, presettlement ponds, or other surface water management structures may be authorized, subject to all of the following criteria:
    - i. The discharge does not increase the rate of flow into or the hydroperiod of a wetland above the natural rates; and
    - ii. All surface water discharged from impervious surfaces shall be treated prior to entering a critical area or buffer; and
    - iii. The water quality of the critical area is not decreased.
5. Stream Crossings. Expansion or construction of stream crossings may be authorized within a designated critical area and buffer, subject to the following minimum standards:
- a. Bridges are required for streams that support salmonids, unless culvert design and construction ensure proper passage opportunities; and
  - b. All crossings using culverts shall use superspan or oversized culverts; and
  - c. Crossings shall not occur in salmonid spawning areas unless no other feasible crossing site exists; and
  - d. Bridge piers or abutments shall not be placed in either the floodway or between the ordinary high-water marks unless no other feasible alternative placement exists; and
  - e. Crossings shall not diminish flood-carrying capacity;
    - i. Replacement projects to all practical extent shall be designed to improve floodway passing capacity to a predevelopment/encroachment condition; and

f. Crossings shall serve multiple properties whenever possible.

6. Trails and Trail-Related Facilities. Construction of public and private trails and trail-related facilities, such as picnic tables, benches, interpretive centers and signs, viewing platforms and campsites may be authorized within a designated critical area buffer, subject to the following minimum standards:

- a. Trail facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or any other previously disturbed areas; and
- b. Trail facilities shall minimize the removal of trees, shrubs, snags and important habitat features. Vegetation management performed in accordance with best management practices as part of ongoing maintenance to eliminate a hazard to trail users is consistent with this standard; and
- c. Viewing platforms, interpretive centers, campsites, picnic areas, benches and their associated access shall be designed and located to minimize disturbance of wildlife habitat and/or critical characteristics of the designated critical area; and
- d. All facilities shall be constructed with materials complementary to the surrounding environment.
- e. Trail facilities that run parallel to a water course may be located in the out 25 percent of the required buffer;
- f. Commercial and public trails shall be the minimum width necessary to meet the designed need, but in no case shall they exceed 10 feet in width, unless required for approved fire/EMS access;
- g. Private trails shall not exceed four feet in width, unless additional width is required for ADA compliance;
- h. Private trails that provide direct water access (perpendicular) shall not exceed four feet in width and shall be kept to the minimum number necessary to serve the intended purpose. Public trail widths may be expanded in width to accommodate for necessary safety and accessibility;
- i. Review and analysis of a proposed trail facility shall demonstrate no net loss of ecological functions and values in conformance with this chapter;
- j. Trail facilities shall not be exempt from special report requirements, as may be required by this chapter.

7. Utilities. When no other practical alternative exists, construction of utilities within a critical area buffer may be authorized, subject to the following minimum standards:

- a. Utility corridors shall be jointly used; and
- b. Corridor construction and maintenance shall protect the designated critical area buffer, and shall be aligned to avoid cutting trees greater than six inches in diameter at breast height when possible; and
- c. No pesticides, herbicides or other hazardous or toxic substances shall be used; and
- d. Utility corridors, including maintenance roads authorized by the city, shall be located at least a distance equal to the width of the utility corridor away from the critical area edge; and

- e. Corridors shall be revegetated to preconstruction densities with appropriate native vegetation immediately upon completion of construction, or as soon thereafter as possible given seasonal growing constraints. The utility purveyor shall provide an assurance device or surety in accordance with this code that ensures such vegetation survives; and
- f. Any additional corridor access for maintenance shall be provided as much as possible at specific points rather than by parallel roads. If parallel roads are necessary, they shall be no greater than fifteen feet in width, and shall be contiguous to the location of the utility corridor on the side opposite the wetland; and
- g. Construction of sewer lines within a designated critical area or critical area buffer which are necessary to meet state and/or local health code requirements shall not adversely impact the function and quality of the designated critical area or buffer.

#### **18.06.040 Critical areas report and mitigation.**

If the administrator determines that the site of a proposed development potentially includes, or is adjacent to, critical area(s), a critical areas report and mitigation plan may be required. The purpose of the critical areas report is to inform the administrator of the degree of impact that can be expected from the development and to establish the need for mitigation. The applicant shall avoid all impacts that degrade the functions and values of critical areas. If alteration is unavoidable, all adverse impacts to critical areas and buffers resulting from the proposal shall be mitigated in accordance with an approved critical area's report and SEPA documents. When mitigation is required, as detailed in TMC 18.06.043, the applicant shall submit for approval a mitigation plan as part of the critical areas report. When required, the expense of preparing the critical areas and mitigation report shall be borne by the applicant. The applicant's choice of consultant or technical expert and the content, format and extent of the critical areas report shall be approved by the administrator.

- A. The requirement for critical areas reports may be waived by the administrator if there is substantial evidence that:
  - 1. There will be no alteration of the critical area(s) and/or the required buffer(s);
  - 2. The proposal will not impact the critical area(s) in a manner contrary to the purpose, intent and requirements of this chapter and the comprehensive plan; and
  - 3. The minimum standards of this chapter will be met.
- B. No critical areas report is required for proposals that are exempt from the provisions of this chapter as set forth in TMC 18.06.020.
- C. Critical areas reports shall be completed by a qualified professional who is knowledgeable about the specific critical area(s) in question, and approved by the administrator.
- D. At a minimum, a required critical areas report shall contain the following information:
  - 1. Applicant's name and contact information; permits being sought, and description of the proposal;
  - 2. A copy of the site plan for the development proposal, drawn to scale and showing:
    - a. Identified critical areas, buffers, and the development proposal with dimensions; and
    - b. Limits of any areas to be cleared; and

- c. A description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations.
  3. The names and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;
  4. Identification and characterization of all critical areas, wetlands, water bodies, and buffers adjacent to the proposed project area;
  5. An assessment of the probable cumulative impacts to critical areas resulting from the proposed development of the site;
  6. An analysis of site development alternatives if applicable;
  7. A description of reasonable efforts made to apply mitigation sequencing to avoid, minimize, and mitigate impacts to critical areas;
  8. A mitigation plan, as needed, in accordance with the mitigation requirements of this chapter, including, but not limited to:
    - a. The impacts of any proposed development within or adjacent to a critical area or buffer on the critical area; and
    - b. The impacts of any proposed alteration of a critical area or buffer on the development proposal, other properties and the environment; and
    - c. A discussion of the performance standards applicable to the critical area and proposed activity; and
    - d. Financial guarantees to ensure compliance; and
    - e. Any additional information required for specific critical areas as listed in subsequent sections of this chapter.
- E. The administrator may request any other information reasonably deemed necessary to understand impacts to critical areas.

#### **18.06.043 Mitigation requirements.**

The applicant shall avoid all impacts that degrade the functions and values of critical areas. If alteration is unavoidable, all adverse impacts to critical areas and buffers resulting from the proposal shall be mitigated in accordance with an approved critical areas report and SEPA documents. Mitigation shall be on site, when possible, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area.

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

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, such as project redesign, relocation, or timing, to avoid or reduce impacts;
  3. Rectifying the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by repairing, rehabilitating, or restoring the affected environment to enhance ecological function and conditions impacted or lost to the proposed development;
  4. Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods;
  5. Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action;
  6. Compensating for the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by replacing, enhancing, or providing substitute resources or environments; and
  7. Monitoring the hazard or other required mitigation and taking remedial action when necessary.
- B. Mitigation Plan. When mitigation is required, the applicant shall submit for approval a mitigation plan as part of the critical area report. The mitigation plan shall include:
1. A written report identifying mitigation objectives, including:
    - a. A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the compensation measures, including the site selection criteria; identification of compensation objectives; identification of critical area functions and values; and dates for beginning and completion of site compensation construction activities;
    - b. A review of the best available science supporting the proposed mitigation and a description of the report author's experience to date in critical areas mitigation; and
    - c. An analysis of the likelihood of success of the compensation project.
  2. Measurable criteria for evaluating whether or not the objectives of the mitigation plan have been successfully attained and whether or not the requirements of this chapter have been met.
  3. Written specifications and descriptions of the mitigation proposed, including, but not limited to:
    - a. The proposed construction sequence, timing, and duration;
    - b. Grading and excavation details;
    - c. Erosion and sediment control features;
    - d. A planting plan specifying plant species, quantities, locations, sizes, spacing, and density;
    - e. Measures to protect and maintain plants until established; and
    - f. Hydrologic and ground water reports.
  4. A program for monitoring construction of the compensation project, and for assessing the completed project and its effectiveness over time. The program shall include a schedule for site monitoring and methods to be used in evaluating whether performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be



monitored for a period necessary to establish that performance standards have been met and be reflective of the functions being restored, but not for a period less than five years. For example, 10 years or more may be required to establish adequate reestablishment of forested and scrub-shrub wetlands.

5. Identify potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

#### **18.06.045 Drainage and erosion control plan.**

- A. All drainage and erosion control plans shall be prepared by an engineer licensed in the state of Washington in compliance with the Tonasket Development Standards Manual (as it exists or hereinafter amended). Upon the city's review and approval of the drainage and erosion control plans, the identified measures to prevent contaminated stormwater from being discharged off the construction site must be in place prior to any clearing, grading or construction.
- B. All drainage and erosion control plans shall address methods to minimize and contain soil within the project boundaries during construction and to provide for stormwater drainage from the site and its surroundings during and after construction. Best management practices (BMPs) must be used to prevent any sediment, oil, gas, pesticide-contaminated soil or other pollutants from entering surface or groundwater.
- C. All drainage and erosion control plans shall be prepared using the Type 2 SCS model (see Tonasket Development Standards), taking into account a storm event equal to or exceeding two inches of rainfall in ninety minutes.

#### **18.06.047 Geotechnical report.**

- A. All geotechnical reports shall be prepared by a consultant team including a geologist and/or geotechnical engineer; or an engineer or an engineering geologist, who is knowledgeable of regional geologic conditions and who derives his/her livelihood from employment in one of these specialized fields.
- B. A geotechnical report shall include a description of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and opinions and recommendations on the suitability of the site to be developed. More specifically, the report shall evaluate the actual presence of geologic conditions giving rise to the geologic hazard, including without limitation the following:
  1. Documentation of site history, evidence of past geologically hazardous activities in the vicinity, quantitative analysis of slope stability and available geologic information;
  2. Surface reconnaissance of the site and adjacent areas;
  3. Subsurface exploration of the site to assess potential geologic impacts of the proposal;
  4. Hydrologic analysis of slope and/or soil stability;
  5. Approximate depth to groundwater;
  6. Evaluation of the safety of the proposed project, and identification of construction practices, monitoring programs and other mitigation measures necessary; and

7. Demonstration of the following:

- a. There will be no increase in surface water discharge or sedimentation to adjacent properties;
- b. There will be no decrease in slope stability on the site nor on adjacent properties;
- c. There is no hazard as proven by evidence of no past geologically hazardous activity in the vicinity of the proposed development and a quantitative analysis of slope stability indicates no significant risk to the development proposal and adjacent properties; and
- d. The geologically hazardous area can be modified or the development proposal can be designed such that the hazard is eliminated or mitigated, making the site as safe as one without a hazard.

C. The recommendations from a soils engineering report and the engineering geology report shall be incorporated in a geotechnical report and in the grading plan specifications.

1. The soils engineering report, prepared according to Chapter 18 of the International Building Code (I.B.C.), shall include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading procedures and design criteria for corrective measures if necessary.
2. The engineering geology report, prepared according to Chapter 18 of the I.B.C., shall include an adequate description of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and opinion on the adequacy for the intended use of sites to be developed by the proposed grading.

**18.06.050 Grading and excavation plan.**

All grading and excavation plans shall be prepared by an engineer licensed in the state of Washington, and shall meet the standards and requirements set forth in Chapter 33 of the International Building Code, and shall contain the following information:

- A. A cover sheet showing the location of work, the name and address of the owner and the engineer who prepared the plans;
- B. General vicinity of the proposed site;
- C. Property limits and accurate contours of existing ground and details of terrain and area drainage. Contour intervals for slopes ten percent or less shall be no more than two feet, and intervals for slopes exceeding ten percent shall be no more than five feet;
- D. Limits of proposed excavation and fill sites, finished contours to be achieved by the grading, and proposed drainage channels to offset stormwater impacts during grading and excavation (and related construction);
- E. Detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams and other protective devices to be constructed with, or as part of the proposed work, together with a map showing the drainage area and the estimated runoff of the area served by any drains;
- F. Location of any buildings or structures on the property where the work is to be performed and the location of any buildings or structures on land of adjacent owners which are within fifteen feet of the property;

G. Recommendations included in a soils engineering report and the engineering geology report shall be incorporated in the grading plans or specifications. When approved by the building official, specific recommendations contained in the soils engineering report and the engineering geology report, which are applicable to grading, may be included by reference;

H. The dates of the soils engineering and engineering geology reports together with the names, seals, license numbers, addresses and phone numbers of the firms and/or individuals who prepared the reports.

#### **18.06.055 Permit conditions.**

Through the review process, the city shall have the authority to attach such conditions to the granting of any approval under this chapter as deemed necessary to alleviate adverse impacts to critical area(s) and to carry out the provisions of this chapter. Such conditions of approval may include, but are not limited to, the following:

- A. Specification of allowable lot sizes;
- B. Provisions for additional buffers relative to the intensity of a use or activity;
- C. Requirements and/or restrictions on the construction, size, location, bulk and/or height, etc., of structure(s);
- D. Dedication of necessary easements for utilities, conservation, open space, etc.;
- E. Imposition of easement agreements, sureties, deed restrictions, covenants, etc., on the future use and/or division of land;
- F. Limitations on the removal of existing vegetation;
- G. Additional measures to address issues such as erosion control, storm water management, filling, grading, etc.;
- H. Development of a mitigation plan to create, enhance, or restore damaged or degraded critical area(s) on and/or off site; and
- I. Any monitoring and/or maintenance plans necessary to implement the provisions of this chapter.

#### **18.06.060 Surety/bonding.**

If a development proposal is subject to mitigation, maintenance or monitoring plans, the city of may require an assurance device or surety in a form acceptable to the city attorney.

#### **18.06.070 Aquifer recharge areas.**

- A. Uses and activities allowed within designated aquifer recharge areas are those areas permitted by the zoning district, subject to the provisions of this chapter.
- B. Classification. Aquifer recharge areas are classified in accordance with the provisions of the Tonasket Comprehensive Plan and are based on highly permeable soils using data from the most current NRCS 2009 Web Soil Survey for Okanogan County. The following classification scheme is used to determine the level of protection necessary for lands that are aquifer recharge areas:

1. Critical Potential. Soils with high permeability ratings according to NRCS 2009 Web Soil Survey.

C. Designation. Critical Aquifer recharge areas in Tonasket shall be designated based on soils data using the classification provisions in the Tonasket Comprehensive Plan. Because the designation focuses on areas where recharge potential exists, protections shall be broad enough to preserve essential aquifer recharge functions and values. Maps III-3 and III-4 in the Map Appendix to the Tonasket Comprehensive Plan show designated potential aquifer recharge areas.

Additionally, if any of the following areas are established within the city's urban growth area, they shall be included on these maps:

1. Sole source aquifer recharge areas designated pursuant to the Federal Safe Drinking Water Act;
2. Areas established for special protection pursuant to the Washington State groundwater management program;
3. Areas designated for wellhead protection pursuant to the Federal Safe Drinking Water Act; and
4. Aquifer recharge areas mapped and identified by a qualified groundwater scientist.

D. Standards. In addition to the general standards (18.06.037) of this chapter and the requirements of the underlying zone, the following minimum standards shall apply to development activities within and adjacent to critical aquifer recharge areas:

1. On-site stormwater facilities shall be designed and installed in all aquifer recharge areas, so as to provide both detention and treatment of all runoff associated with the development. Such stormwater facilities shall comply with all relevant requirements of the Washington Department of Ecology Eastern Washington Stormwater Manual and Development Standards Manual.;
2. Development activities within an aquifer recharge area shall be designed, developed and operated in a manner that will not potentially degrade groundwater resources nor adversely affect the recharging of the aquifer;
3. A hydrogeologic study and/or ongoing monitoring may be required to assess impacts of development activities on groundwater resources;
4. All storage tanks, whether above or underground, shall be required to be constructed so as to protect against corrosion for the operational life of the tank, to prevent any release of hazardous substances to the ground, ground waters, or surface waters, and to utilize appropriate containment methods.
5. Landfills, junkyards/salvage yards, mining, wood treatment facilities, or any other activity which could contaminate ground water in critical potential aquifer recharge areas shall be prohibited. Such activities may be permitted in areas with high or moderate recharge potential in accord with applicable zoning regulations, providing the applicant can satisfactorily demonstrate that potential negative impacts to groundwater can be prevented.
6. Any agricultural activities conducted within aquifer recharge areas shall incorporate best management practices concerning waste disposal, fertilizer/pesticide/herbicide use, and stream corridor management. If necessary, applicants shall seek technical assistance from the Okanogan County Conservation District or the WSU Cooperative Extension Office.
7. Application of pesticides, herbicides and fertilizers within aquifer recharge areas shall comply with timing and rates specified on product packaging.

8. Vehicle repair and servicing activities must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing must be stored in a manner that protects them from weather and provides containment should leaks occur.

9. Car washes may be permitted inside critical aquifer recharge areas provided they comply with the Department of Ecology's Best Management Standards for Vehicle and Equipment Washwater Discharges/Best Management Practices Manual (as hereinafter amended).

#### **18.06.090 Fish and wildlife habitat conservation areas.**

Development, uses and activities within or near identified fish and wildlife conservation areas and their buffer areas as identified on Map III-5 in the comprehensive plan map appendix shall comply with the regulations contained in this chapter. The city may use the information sources in TMC 18.06.033 as guidance in identifying the presence of potential fish and wildlife habitat conservation areas and the subsequent need for a habitat boundary survey along with an on-site inspection, if necessary.

A. Fish and Wildlife Habitat Conservation Areas. Fish and wildlife conservation areas include:

1. Areas in which endangered, threatened, and sensitive species have a primary association;
2. Habitats and species of local importance;
3. Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat;
4. Waters of the state;
5. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity;
6. State natural area preserves and natural resource conservation areas;
7. Riparian areas;
8. Intermittent and perennial streams;
9. Priority habitats and species as identified by the Washington State Department of Fish and Wildlife Priority Habitats and Species Program.

B. Classification. WDFW has identified those fish and wildlife resources that are considered a priority for management and conservation. Priority habitats are those with unique or significant value to many fish or wildlife species. Priority species are those which require special efforts to ensure their perpetuation because of their low numbers, sensitivity to habitat alteration, tendency to form vulnerable aggregations or because they hold commercial, recreational, or tribal importance. Tonasket shall use the WDFW priority habitat and species program to classify all fish and wildlife habitat conservation areas within the city and urban growth boundary. The city uses two classifications of habitat conservation areas in accordance with the provisions of the Tonasket Comprehensive Plan as shown on Map III-5 in the Map

Appendix to the City of Tonasket Comprehensive Plan. In addition, the city may designate additional species, habitats of local importance, and/or wildlife corridors as follows:

1. Demonstrate a need for special consideration based on:
  - a. Declining population,
  - b. Sensitivity to habitat manipulation,
  - c. Commercial, recreational, cultural, or other special value, or
  - d. Maintenance of connectivity between habitat areas;
2. Propose relevant management strategies considered effective and within the scope of this chapter;
3. Identify effects on property ownership and use; and
4. Provide a map.
5. Submitted proposals shall be reviewed by the city and may be forwarded to the State Departments of Fish and Wildlife, Natural Resources, and/or other local, state, federal, and/or tribal agencies or experts for comments and recommendations regarding accuracy of data and effectiveness of proposed management strategies.
6. If the proposal is found to be complete, accurate, and consistent with the purposes and intent of this chapter and the various goals and objectives of the city's comprehensive plan, the Growth Management Act, the Shoreline Management Act and this chapter, the city council will hold a public hearing to solicit comment. Approved nominations will then be processed as amendments to the comprehensive plan and/or the TMC in conformance with TMC Title 17, in order to be considered as designated locally important habitats, species, or corridors and if approved will be subject to the provisions of this chapter.

B. Designation. Fish and wildlife conservation areas are designated in accordance with the provisions of the Tonasket Comprehensive Plan. Map III-5 in the Map Appendix to the Tonasket Comprehensive Plan designates fish and wildlife habitat conservation areas.

C. Habitat Boundary Survey.

1. A wildlife habitat boundary survey and evaluation shall be conducted by a qualified professional biologist, as appropriate, who is knowledgeable of wildlife habitat within north central Washington. The wildlife habitat boundary shall be field staked by the biologist and surveyed by a land surveyor for disclosure on all final plats, maps, etc.
2. The administrator may waive the requirement for the survey for minor development if:
  - a. The proposed development is not within the extended proximity of the associated wildlife habitat;

- b. There is adequate information available on the area proposed for development to determine the impacts of the proposed development and appropriate mitigating measures; and
    - c. The applicant provides voluntary deed restrictions that are approved by the administrator.
  3. The wildlife habitat boundary and any associated buffer shall be identified on all plats, maps, plans and specifications submitted for the project.
- D. Fish/Wildlife Habitat Management and Mitigation Plan.
  1. The administrator may waive the requirements for a habitat management and mitigation plan if the requirement for a habitat survey has been waived.
  2. A fish/wildlife habitat management and mitigation plan shall be prepared by a qualified professional biologist who is knowledgeable of fish and wildlife habitat within north central Washington.
  3. In determining the extent and type of mitigation appropriate for the development, the plan shall evaluate the ecological processes that affect and influence critical area structure and function within the watershed or sub-basin; the individual and cumulative effects of the action upon the functions of the critical area and associated watershed; and note observed or predicted trends regarding specific wetland types in the watershed, in light of natural and human processes.
  4. Where compensatory mitigation is necessary, the plan should seek to implement restoration objectives identified in cooperation with the landowner, WDFW and the Okanogan County Conservation District.
  5. The fish/wildlife habitat management and mitigation plan shall demonstrate, when implemented, no net loss of ecological functions of the habitat conservation area and buffer.
  6. The fish/wildlife habitat management and mitigation plan shall identify how impacts from the proposed project shall be mitigated, as well as the necessary monitoring and contingency actions for the continued maintenance of the habitat conservation area and any associated buffer.
  7. Performance Standards. The following performance standards shall apply to compensatory mitigation projects:
    - a. Mitigation planting survival will be 100 percent for the first year, and 80 percent for each of the four years following.
    - b. Mitigation must be installed no later than the next growing season after completion of site improvements, unless otherwise approved by the administrator.
    - c. Where necessary, a permanent means of irrigation shall be installed for the mitigation plantings that are designed by a landscape architect or equivalent professional, as approved by the administrator. The design shall meet the specific needs of riparian and shrub steppe vegetation.

- d. Monitoring reports by the biologist must include verification that the planting areas have less than 20 percent total nonnative/invasive plant cover consisting of exotic and/or invasive species. Exotic and invasive species may include any species on the state noxious weed list, or considered a noxious or problem weed by the Natural Conservation Services Department or local conservation districts.
- e. On-site monitoring and monitoring reports shall be submitted to the administrator one year after mitigation installation; three years after mitigation installation; and five years after mitigation installation. The length of time involved in monitoring and monitoring reports may be increased by the administrator for a development project on a case-by-case basis when longer monitoring time is necessary to establish or reestablish functions and values of the mitigation site. Monitoring reports shall be submitted by a qualified professional biologist. The biologist must verify that the conditions of approval and provisions in the fish and wildlife management and mitigation plan have been satisfied.
- f. Mitigation sites shall be maintained to ensure that the mitigation and management plan objectives are successful. Maintenance shall include corrective actions to rectify problems, include rigorous, as-needed elimination of undesirable plants; protection of shrubs and small trees from competition by grasses and herbaceous plants, and repair and replacement of any dead plants.
- g. Sequential release of funds associated with the surety agreement shall be reviewed for conformance with the conditions of approval and the mitigation and management plan. Release of funds may occur in increments of one-third for substantial conformance with the plan and conditions of approval. Verification of conformance with the provisions of the mitigation and management plan and conditions of approval after one year of mitigation installation shall also allow for the full release of funds associated with irrigation systems, clearing and grubbing and any soil amendments. If the standards that are not met are only minimally out of compliance and contingency actions are actively being pursued by the property owner to bring the project into compliance, the city may choose to consider a partial release of the scheduled increment. Noncompliance can result in one or more of the following actions: carryover of the surety amount to the next review period; use of funds to remedy the nonconformance; scheduling a hearing with the city council to review conformance with the conditions of approval and to determine what actions may be appropriate.
- h. Prior to site development and/or building permit issuance, a performance surety agreement must be entered into by the property owner and the city. The surety agreement must include the complete costs for the mitigation and monitoring which may include but not be limited to: the cost of installation, delivery, plant material, soil amendments, permanent irrigation, seed mix, and three monitoring visits and reports by a qualified professional biologist, including Washington State sales tax. The city must approve the quote for said improvements.

E. General Standards. The following minimum standards shall apply to all development activities occurring within designated riparian and habitat conservation areas and their associated buffers outside of the jurisdiction of the Tonasket shoreline master program. The following standards for development shall be required in addition to the general provisions of this chapter and the requirements of the underlying zone:



1. Except as permitted by this chapter, habitat conservation areas and buffers will be left undisturbed, unless the development proposal demonstrates that impacts to the habitat conservation area and/or buffer are unavoidable, demonstrated by compliance with this chapter. Impacts must be addressed with appropriate mitigation and enhancement measures as determined on a site-specific basis in conformance with this chapter;
2. Habitat Assessment. Critical area's reports for fish and wildlife habitat conservation areas shall include a habitat assessment to evaluate the presence or absence of a critical species or habitat.
3. All projects shall comply with the applicable federal, state and local regulations regarding the species and habitats identified upon a site.
4. The Washington State Department of Fish and Wildlife priority habitat and species management recommendations shall be consulted in developing specific measures to protect a specific project site;
5. As determined through the site-specific study, mitigation measures shall be implemented that maintain the baseline populations and reproduction rates for the particular species; and
6. As determined through the site-specific study, appropriate habitat conservation, management and monitoring plan(s) shall be developed and implemented, with any necessary surety to ensure compliance with such plan(s) being provided as described in TMC 18.06.060.
7. Those areas within any of the established riparian habitat areas and owned by the city of Tonasket shall be considered for restoration whenever projects are proposed, or as resources may become available for such work. However, that area owned by the city immediately south of the southern boundary of Township 37, Range 27, Section 16 shall be considered a protected riparian habitat area where development shall not be allowed to occur.
8. When needed to protect the functions and values of habitat conservation areas, the administrator shall require the establishment of buffer areas for activities in or adjacent to such areas. Buffers shall consist of an undisturbed area of native vegetation, or areas identified for restoration.
9. Buffer widths shall reflect the classification and sensitivity of the habitat and the intensity of activity proposed, and shall be consistent with the management recommendations issued by the Washington State Department of Fish and Wildlife.
10. Any approved alteration or development shall be required to minimize impacts to native vegetation. Where disturbance is unavoidable, the applicant shall restore the area to the extent possible using native plants appropriate to the site. New plantings shall be monitored and maintained in good growing condition and kept free of invasive weeds until well established upon the site.
11. Within riparian habitat conservation areas, vegetation shall not be removed unless no other alternative exists. In such cases clearing shall be limited to those areas necessary and disturbed areas shall be replanted with site-appropriate native riparian vegetation.
12. Access to habitat conservation areas or buffers may be restricted in accord with the findings of a critical areas report, mitigation report, PHS management recommendations or other best available science. Access restrictions may include fencing and signs as needed to ensure protection of habitat functions and values. Restrictions may be seasonal in nature.

13. Subdivision of lands, including both short and long plats, within habitat conservation areas shall be subject to the following:
  - a. Uplands.
    - i. Lot sizes shall conform to the underlying zone. Variances for smaller lots shall not be considered unless a habitat assessment is provided by applicant and a determination that subdivision will not negatively affect habitat quality can be determined.
    - ii. Long plats located in upland habitat areas must reserve ample core habitat and connectivity designated as open space on the plat. Open space must connect adjacent habitat areas outside the project area. Open space must be landscaped and managed in a manner that protects the habitat area for the priority species.
    - iii. Cumulative impacts to habitat fragmentation in uplands from consecutive short plats must be considered prior to approval of the subdivision.
  - b. Riparian. Refer to shoreline master program.
14. All activities, uses and alterations proposed to be located in or adjacent to water bodies used by anadromous fish shall give special consideration to the preservation and enhancement of associated habitats.
15. Habitat Conservation Areas:
  - a. Development occurring within a 1,000-foot radius of a state or federal threatened, endangered, or sensitive species den, nesting, or breeding site, migration corridors or feeding areas of terrestrial species shall require a habitat management and mitigation plan.
  - b. Cliff, cave and talus slope habitats shall have at least a 50-foot buffer for safety and resource protection.
  - c. Bald eagles: an approved bald eagle management plan by the Washington Department of Fish and Wildlife meeting the requirement and guidelines of the Bald Eagle Protection Rules, WAC 232-12-292, as amended, satisfies the requirements of a habitat management and/or mitigation plan.
  - d. Rocky Mountain mule deer habitat: habitat connectivity and migration corridors for mule deer shall be considered in habitat management and/or mitigation plans.
  - e. Development in or over all surface waters shall require a habitat mitigation plan.
  - f. Aquatic and Vegetation Conservation Protection Standards.
16. Developments authorized within a designated habitat conservation area or buffer resulting in a greater percentage of use than allowed by this chapter shall comply with the following minimum standards:
  - a. A habitat management and mitigation plan shall be required.

b. Designated habitat conservation areas and their associated buffers shall be delineated and disclosed on final plats, maps, documents, etc., as critical area tracts, nonbuildable lots, buffer areas or common areas. Ownership and control may be transferred to a homeowner's association or designated as an easement or covenant encumbering the property.

c. All lots within a major subdivision, short plat or binding site plan shall have the outer edge of all required buffers clearly marked on site with permanent buffer edge markers. Buffer markers may be either buffer signs or steel posts painted with a standard color and label, as approved by the administrator. The markers shall be field verified by the surveyor or biologist of record prior to final plat approval. Each lot shall contain a minimum of three buffer area markers located at the landward edge of the buffer perimeter for each habitat type; one located at each side property line and one midway between side property lines. Covenants for the subdivision shall incorporate a requirement stating that buffer area markers shall not be removed, or relocated, except as may be approved by the administrator. (Ord. 746 § 2 (Exh. A), 2014).

**18.06.110 Wetlands.** Development, uses and activities allowed within designated wetlands (see Map III-6 in map appendix to comprehensive plan) or associated wetland buffers are those uses authorized by, and subject to, the provisions of this chapter in general and this section specifically.

A. Purpose. The purposes of this section are to:

1. Recognize and protect the beneficial functions performed by many wetlands, which include, but are not limited to, providing food, breeding, nesting and/or rearing habitat for fish and wildlife; recharging and discharging ground water; contributing to stream flow during low flow periods; stabilizing stream banks and shorelines; storing storm and flood waters to reduce flooding and erosion; and improving water quality through biofiltration, adsorption, and retention and transformation of sediments, nutrients, and toxicants.
2. Regulate land use to avoid adverse effects on wetlands and maintain the functions and values of wetlands throughout the nonshoreline areas of the city of Tonasket.
3. Establish review procedures for development proposals in and adjacent to wetlands that lie outside of shoreline jurisdiction.

B. Classification. Wetlands in Tonasket shall be classified in accordance with the provisions of the Tonasket Comprehensive Plan using the Washington State Wetlands Rating System for Eastern Washington.

C. Designation. Wetlands in Tonasket and its urban growth area are designated using the provisions of the Tonasket Comprehensive Plan. To date, there has been no wetlands mapping done specifically for the Tonasket area. To remedy this, the city should pursue an accurate accounting of all wetlands in its planning area based on the Washington State Wetlands Rating System for Eastern Washington.

However, until funding is obtained to conduct a comprehensive inventory of wetlands, the National Wetlands Inventory (NWI) maps are used as a basis for designation. The NWI maps, along with other supportive documentation, shall be used to review development proposals, but because the National

Wetlands Inventory was done at such a broad scale, local verification according to the classification criteria shall be part of the standard process for identifying and designating wetlands. Map III-6 in the Map Appendix to the Tonasket Comprehensive Plan designates wetlands.

D. Regulated Activities.

1. For any regulated activity, a critical areas report or wetland critical areas report (see TMC 18.06.040 and 043) may be required to support the requested activity.
2. The following activities are regulated if they occur in a regulated wetland or its buffer:
  - a. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind.
  - b. The dumping of, discharging of, or filling with any material.
  - c. The draining, flooding, or disturbing the water level or water table.
  - d. Pile driving.
  - e. The placing of obstructions.
  - f. The construction, reconstruction, demolition, or expansion of any structure.
  - g. The destruction or alteration of wetland vegetation through clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a regulated wetland.
  - h. Class IV – General forest practices under the authority of the 1992 Washington State Forest Practices Act Rules and Regulations, WAC 222-12-030, or as thereafter amended.
  - i. Activities that result in:
    - i. A significant change of water temperature.
    - ii. A significant change of physical or chemical characteristics of the sources of water to the wetland.
    - iii. A significant change in the quantity, timing or duration of the water entering the wetland.
    - iv. The introduction of pollutants.
3. Subdivisions. The subdivision and/or short subdivision of land in wetlands and associated buffers are subject to the following:
  - a. Land that is located wholly within a wetland or its buffer may not be subdivided.

- b. Land that is located partially within a wetland or its buffer may be subdivided provided that an accessible and contiguous buildable portion of each new lot is:
    - i. Located outside of the wetland and its buffer; and
    - ii. Meets the minimum lot size requirements for the underlying zone.
- E. Exemptions and Allowed Uses in Wetlands.
1. The following wetlands are exempt from the buffer provisions and mitigation sequencing process contained in this chapter. They may be filled if impacts are fully mitigated based on provisions in TMC 18.06.040 and 043. In order to verify the following conditions, a critical area report for wetlands meeting the requirements in TMC 18.06.043 must be submitted.
    - a. All isolated Category III and IV wetlands less than 1,000 square feet that:
      - i. Are not associated with riparian areas or buffer;
      - ii. Are not part of a wetland mosaic;
      - iii. Do not contain habitat identified as essential for local populations of priority species identified by Washington Department of Fish and Wildlife;
      - iv. Are not a vernal pool;
      - v. Are not an alkali wetland;
      - vi. Do not contain aspen stands.
  2. Activities Allowed in Wetlands. The activities listed below are allowed in wetlands. These activities do not require submission of a critical area or wetland critical area report, except where such activities result in a loss of the functions and values of a wetland or wetland buffer. These activities include:
    - a. Those activities and uses conducted pursuant to the Washington State Forest Practices Act and its rules and regulations, WAC 222-12-030, where state law specifically exempts local authority, except those developments requiring local approval for Class 4 – General forest practice permits (conversions) as defined in Chapter 76.09 RCW and Chapter 222-12 WAC.
    - b. Conservation or preservation of soil, water, vegetation, fish, shellfish, and/or other wildlife that does not entail changing the structure or functions of the existing wetland.
    - c. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.

- d. Drilling for utilities/utility corridors under a wetland, with entrance/exit portals located completely outside of the wetland buffer; provided, that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column will be disturbed.
- e. Enhancement of a wetland through the removal of nonnative invasive plant species. Removal of invasive plant species shall be restricted to hand removal unless permits from the appropriate regulatory agencies have been obtained for approved biological or chemical treatments. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.
- f. Educational and scientific research activities.
- g. Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way; provided, that the maintenance or repair does not expand the footprint or use of the facility or right-of-way.

F. Standards. In addition to the general provisions of this chapter, Sections 18.06.110(D) and (E), and the requirements of the underlying zone, the following minimum standards shall apply to development activities within and adjacent to wetland areas:

- 1. Activities and uses shall be prohibited from wetlands or wetland buffers unless the applicant can show that the proposed activity will not degrade the functions and values of the wetland or other critical areas, or as otherwise provided in this chapter. The following Table 18.06.110 (1) describes the level of impact expected from different land uses:

**Table 18.06.110(1)**

Types of proposed land use that can result in high, moderate, and low levels of impacts to adjacent wetlands. Level of impact from proposed change in land use	Types of land use based on common zoning designations
High	<ul style="list-style-type: none"> <li>• Commercial</li> <li>• Urban</li> <li>• Industrial</li> <li>• Institutional</li> <li>• Retail sales</li> </ul>

Types of proposed land use that can result in high, moderate, and low levels of impacts to adjacent wetlands. Level of impact from proposed change in land use	Types of land use based on common zoning designations
	<ul style="list-style-type: none"> <li>• Residential (more than 1 du/acre)</li> <li>• Conversion to high intensity agriculture (dairies, nurseries, greenhouses, growing and harvesting crops requiring annual tillage and raising and maintaining animals)</li> <li>• High intensity recreation (golf courses, ball fields, etc.)</li> <li>• Hobby farms</li> </ul>
<b>Moderate</b>	<ul style="list-style-type: none"> <li>• Residential (1 du/acre or less)</li> <li>• Moderate intensity open space (parks with biking, jogging, etc.)</li> <li>• Conversion to moderate intensity agriculture (orchards, hay fields, etc.)</li> <li>• Paved trails</li> <li>• Building of logging roads</li> <li>• Utility corridor or right-of-way shared by several utilities and including access/maintenance road</li> </ul>
<b>Low</b>	<ul style="list-style-type: none"> <li>• Forestry (cutting of trees only)</li> <li>• Low intensity open space (hiking, birdwatching, preservation of natural resources, etc.)</li> <li>• Unpaved trails</li> <li>• Utility corridor without a maintenance road and little or no vegetation management</li> </ul>

G. Wetland Buffers.

Buffer widths are to be determined through the combination of the functional score, generated by the wetland classification system described in subsection (B) of this section, and the proposed land use intensity. Buffers shall be vegetated with a native plant community appropriate for the ecoregion or with one that performs similar functions. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided. Generally, improving the vegetation will be more effective than widening the buffer.

Guidelines for establishing high, moderate, and low intensity land uses are provided in Table 18.06.110(1) and the Tonasket Zoning Code. The use of Table 18.06.110(1) along with the development and performance standards set forth in this chapter shall be used as to establish the land use intensity. The following standard buffer widths in Tables 18.06.110(2-5) have been established in accordance with the Department of Ecology's recommendations and are considered best available science to provide predictability in the regulation of wetlands.



**Table 18.06.110(2)**  
**Category I (Wetlands Scoring 70 Points or More for All Functions or Having Special Characteristics Identified in the Rating System)**

Wetland Characteristic	Buffer Widths by Impact of Use	Other Measures
Wetlands of High Conservation Value	Low – 125 ft Moderate – 190 ft High – 250 ft	<ul style="list-style-type: none"> <li>• No additional surface discharges to wetland or its tributaries</li> <li>• No septic systems within 300 ft</li> <li>• Restore degraded parts of buffer</li> </ul>
Bogs	Low – 125 ft Moderate – 190 ft High – 250 ft	<ul style="list-style-type: none"> <li>• No additional surface discharge to wetland or tributaries</li> <li>• Restore degraded parts of buffer</li> </ul>
Forested	Buffer size to be based on score for habitat function or water quality functions	<ul style="list-style-type: none"> <li>• If forest wetland scores high for habitat, need to maintain connectivity to other natural area</li> <li>• Restore degraded parts of buffer</li> </ul>
Alkali	Low – 100 ft Moderate – 150 ft High – 200 ft	<ul style="list-style-type: none"> <li>• No additional surface discharges to wetland or its tributaries Restore degraded parts of buffer</li> </ul>
High level of function habitat score (8-9 pts)	Low – 100 ft Moderate – 150 ft High – 200 ft	<ul style="list-style-type: none"> <li>• Maintain connections to other habitat areas Restore degraded parts of buffer</li> </ul>
Moderate level of function for habitat (score for habitat 6-7 points)	Low – 75 ft Moderate – 110 ft High – 150 ft	<ul style="list-style-type: none"> <li>• No recommendations at this time</li> </ul>
High level of function for water quality improvements (8-9 pts) and low for habitat (< 6 pts)	Low – 50 ft Moderate – 75 ft High – 100 ft	<ul style="list-style-type: none"> <li>• No additional surface discharges of untreated runoff</li> </ul>
Not meeting any characteristics	Low – 50 ft Moderate – 75 ft High – 100 ft	<ul style="list-style-type: none"> <li>• No recommendations at this time</li> </ul>

**Table 18.06.110(3)  
Category II (Wetlands Scoring 51 – 69 Points for All Functions or Having Special Characteristics Identified in the Rating System)**

Wetland Characteristic	Buffer Widths by Impact of Use	Other Measures
High level of function for habitat (habitat score 8-9 pts)	Low – 100 ft Moderate – 150 ft High – 200 ft	<ul style="list-style-type: none"> <li>• Maintain connections to other habitat areas</li> </ul>
Moderate level of functions for habitat (habitat score 6-7 pts)	Low – 75 ft Moderate – 110 ft High – 150 ft	<ul style="list-style-type: none"> <li>• No recommendations (confer with Ecology)</li> </ul>
High level of function for water quality improvement (8-9 pts) and low for habitat (< 6 pts)	Low – 50 ft Moderate – 75 ft High – 100 ft	<ul style="list-style-type: none"> <li>• No additional surface discharges of untreated runoff</li> </ul>
Vernal pools	Low – 100 ft Moderate – 150 ft High – 200 ft OR Develop a regional plan to protect the most important vernal pool complexes – buffers of vernal pools outside protection zones can then be reduced to: Low - 40 ft Moderate – 60 ft High – 80 ft	<ul style="list-style-type: none"> <li>• No intensive grazing or tilling in the wetland</li> </ul>
Riparian forest	Buffer widths to be based on habitat and water quality functional scores	<ul style="list-style-type: none"> <li>• Riparian forest wetlands need to be protected at the watershed or sub-basing scale</li> <li>• Other protections to be based on habitat and water quality function</li> </ul>
Other, not meeting above characteristics	Low – 50 ft Moderate – 75 ft High – 100 ft	<ul style="list-style-type: none"> <li>• No recommendations (confer with Ecology)</li> </ul>

**Table 18.06.110(4)  
Category III (Wetlands Scoring 30 – 50 Points for All Functions or Isolated Vernal Pools)**

<b>Wetland Characteristics</b>	<b>Buffer Widths by Impact of Proposed Land Use</b>	<b>Other Measures Recommended for Protection</b>
Moderate level of function for habitat (score for habitat 6-7 pts)*  • If wetland scores 8-9 habitat points, use Category II buffers	Low – 75 ft Moderate – 110 ft High – 150 ft	• No recommendations (confer with Ecology)
Score for habitat 3-5 points	Low – 40 ft Moderate – 60 ft High – 80 ft	• No recommendations (confer with Ecology)

**Table 18.06.110(5)  
Category IV (Wetlands Scoring Less Than 30 Points)**

<b>Wetland Characteristics</b>	<b>Buffer Widths by Impact of Proposed Land Use</b>	<b>Other Measures Recommended for Protection</b>
Score for all 3 basic functions < 16	Low – 25 ft Moderate – 40 ft High – 50 ft	• No recommendations (confer with Ecology)

The standard buffer widths shall be applied unless the administrator determines through a scientifically supportable method that a greater or lesser buffer width would serve to protect the functions and values of a particular wetland. The buffer widths recommended for proposed land uses with high-intensity impacts to wetlands can be reduced to those recommended for moderate-intensity impacts under the following conditions:

1. For wetlands that score moderate or high for habitat (6 points or more for the habitat functions), the width of the buffer can be reduced if both of the following criteria are met:
  - a. A relatively undisturbed, vegetated corridor at least 100 feet wide is protected between the wetland and any other Priority Habitats as defined by the Washington State Department of Fish and Wildlife. The latest definitions of priority habitats and their locations are available on the WDFW web site at: <http://wdfw.wa.gov/hab/phshabs.htm>

The corridor must be protected for the entire distance between the wetland and the Priority Habitat by some type of legal protection such as a conservation easement.

- b. Measures to minimize the impacts of different land uses on wetlands, such as the examples summarized in Table 18.06.110(6), are applied.

2. For wetlands that score less than 6 points for habitat, the buffer width can be reduced to that required for moderate land-use impacts by applying measures to minimize the impacts of the proposed land uses (see examples in Table 18.06.110(6)).

Greater buffer widths or rehabilitation of an inadequate plant community may be required where necessary to ensure development does not result in adverse impacts to wetlands.

**Table 18.06.110(6)**

<b>Activities and Uses that Cause Disturbances</b>		<b>Examples of Measures to Minimize Impacts</b>
Lights	<ul style="list-style-type: none"> <li>• Parking lots</li> <li>• Warehouses</li> <li>• Manufacturing</li> <li>• Residential</li> </ul>	<ul style="list-style-type: none"> <li>• Direct lights away from wetland</li> </ul>
Noise	<ul style="list-style-type: none"> <li>• Manufacturing</li> <li>• Residential</li> </ul>	<ul style="list-style-type: none"> <li>• Locate activity that generates noise away from wetland</li> </ul>
Toxic runoff*	<ul style="list-style-type: none"> <li>• Parking lots</li> <li>• Roads</li> <li>• Manufacturing</li> <li>• Residential areas</li> <li>• Application of agricultural pesticides</li> <li>• Landscaping</li> </ul>	<ul style="list-style-type: none"> <li>• Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered</li> <li>• Establish covenants limiting use of pesticides within 150 ft of wetland</li> <li>• Apply integrated pest management</li> </ul>
Stormwater runoff	<ul style="list-style-type: none"> <li>• Parking lots</li> <li>• Roads</li> <li>• Manufacturing</li> <li>• Residential areas</li> <li>• Commercial</li> <li>• Landscaping</li> </ul>	<ul style="list-style-type: none"> <li>• Retrofit stormwater detention and treatment for roads and existing adjacent development</li> <li>• Prevent channelized flow from lawns that directly enters the buffer</li> </ul>
Change in water regime	<ul style="list-style-type: none"> <li>• Impermeable surfaces</li> <li>• Lawns</li> <li>• Tilling</li> </ul>	<ul style="list-style-type: none"> <li>• Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns</li> </ul>
Pets and human disturbance	<ul style="list-style-type: none"> <li>• Residential areas</li> </ul>	<ul style="list-style-type: none"> <li>• Use privacy fencing; plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion; place wetland and its buffer in a separate tract</li> </ul>
Dust	<ul style="list-style-type: none"> <li>• Tilled fields</li> </ul>	<ul style="list-style-type: none"> <li>• Use best management practices to control dust</li> </ul>

\* These examples are not necessarily adequate for minimizing toxic runoff if threatened or endangered species are present at the site.

3. Measurement of Wetland Buffers. All buffers shall be measured from the wetland boundary as surveyed in the field. The width of the wetland buffer shall be determined according to the wetland category and the proposed land use. The same buffer widths and measurement criteria shall apply to any wetland created, restored, or enhanced as compensation for approved wetland alterations. Buffers shall be clearly marked on the ground.
4. Wetland Buffer Width Averaging. The administrator may allow averaging of wetland buffer widths in accordance with an approved critical area's report if it is shown that no alternate configuration for site development exists based on topographical or lot dimensional constraints without averaging, provided the following conditions are met:
  - a. There will be no reduction in wetland functions and values;
  - b. The wetland contains variations in sensitivity due to physical characteristics or the character of the buffer varies in slope, soils, or vegetation such that the wetland would benefit from a wider buffer in some areas and a narrower buffer in other places; and
  - c. The total area contained in the buffer area is no less than would have otherwise been applied under buffer widths in Tables 18.60.110(2) through (5).
  - d. That the buffer at its narrowest point will never be less than either  $\frac{3}{4}$  of the required width or 75 feet for Category I and II, 50 feet for Category III and 25 feet for Category IV, whichever is greater.
5. Where other critical areas coincide with wetlands, buffers shall be configured so as to protect aggregate functions and values. Particular consideration shall be given to habitat connectivity.
6. Wetland buffer zones shall be retained in their natural condition. Where buffer disturbances are unavoidable during adjacent construction, revegetation with native plant materials will be required.
7. The following activities shall be allowed within wetland buffers:
  - a. Conservation or restoration activities aimed at protecting soil, water, vegetation or wildlife;
  - b. Pedestrian trails in wetlands or buffers be limited to permeable surfaces no more than five feet in width. Trails should not be permitted in wetlands except for minor crossings that minimize impact. They should be located only in the outer 25% of a wetland buffer, and should be designed to avoid removal of significant trees. In most cases, wetland buffer widths should be increased to compensate for the loss due to the width of the trail; and
  - c. Educational and scientific research activities; and
  - 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 to a natural condition.
  - e. Any permitted activity in a wetland buffer should avoid the removal of vegetation, especially native trees, and keep vegetation removal to an absolute minimum.

8. Category I and II wetlands shall not be used for regional stormwater detention. Category III and IV may be considered for stormwater detention provided pollution measures are approved by the Department of Ecology.
9. The outer 25 percent of buffers, limited to Category II and IV wetlands may be used for stormwater dispersion outfalls and bioswale facilities provided there is no other feasible location and that the location of such facilities will not adversely impact the functions and values of the wetland or alter the hydroperiod and water quality.
10. Stormwater facilities must conform to standards set forth in the Washington Department of Ecology Stormwater Management Manual for Eastern Washington or any future editions to the manual.
11. As a condition of any permit or authorization pursuant to this title, the administrator may require temporary or permanent signs and/or fencing along the perimeter of a wetland or buffer in order to protect the functions and values of the wetland, or to minimize future impacts or encroachment upon the wetland or buffer.
12. Wetland alteration proposals shall be approved only if no alternative is available. If alteration is unavoidable, all adverse impacts shall be mitigated as set forth in an approved critical area's report and mitigation plan.
13. Mitigation shall achieve equivalent or greater biological functions as existed in the wetland prior to mitigation. When possible, mitigation shall be achieved through a mitigation plan that meets the guidance set forth by the Department of Ecology. Mitigation may occur on site or within the same drainage basin provided and be on site and sufficient to maintain the functions and values of the wetland and buffer areas being mitigated.
14. Mitigation actions that require compensation by replacing, enhancing or substitution shall occur in the following order of preference:
  - a. Restoring, replacing or enhancing the wetland on the site of the project;
  - b. Restoring, replacing or enhancing degraded wetlands in the same subbasin;
  - c. Creating wetlands on upland sites that were former wetlands or that are disturbed upland sites;
  - d. Preserving high quality wetlands that are under imminent threat.

Mitigation ratios shall be set forth in Table 18.06.110(7) or the administrator shall seek guidance from the Department of Ecology for updated ratio standards. These ratios do not apply to remedial actions resulting from unauthorized alterations.

Table 18.06.110(7)

Category and Type of Wetland	Creation or Re-Establishment	Rehabilitation	Enhancement
(A) Category I	6:1	12:1	24:1
(B) Category II	3:1	6:1	12:1
(C) Category III	2:1	4:1	8:1
(D) Category IV	1.5:1	3:1	6:1

15. The mitigation ratio may be increased if the administrator identifies that:
- Uncertainty exists as to the probable success of the proposed restoration or creation;
  - A significant time period will elapse between impact and replication of wetland functions;
  - Proposed mitigation will result in a lower category of wetland or reduced functions relative to the wetland being impacted; or
  - The impact was due to an unauthorized action.
16. The administrator may decrease the mitigation ratio where:
- Documentation by a qualified wetlands specialist demonstrates that the proposed mitigation actions have a very high likelihood of success;
  - Documentation by a qualified wetlands specialist demonstrates that the proposed mitigation actions will provide functions and values greater than the wetland being impacted; or
  - The proposed mitigation actions are conducted in advance of the impact and have been shown to be successful.
17. The administrator may allow greater density of development (in compliance with the Tonasket Zoning Code) outside of wetland areas and associated buffers through approval of a variance provided the ability to:
- Ensure a high level of protection for on-site resources is demonstrated in an approved critical area's report and mitigation plan.
  - A showing of good and sufficient cause;
  - A determination that failure to grant the increase in density would result in exceptional hardship to the applicant.

#### **18.06.130 Frequently flooded areas.**

The flood hazard areas identified by the FEMA maps and study adopted in this chapter are subject to periodic inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

Development, uses and activities within identified frequently flooded areas (see Map III-7 in the comprehensive plan map appendix) shall comply with the regulations contained in Chapter 15.16 TMC. When a project location includes one or more other designated critical areas the following regulations apply in addition to Chapter 15.16 TMC.

- A. Purpose. It is the purpose of this section to provide regulations intended to protect the functions and values of designated critical areas resulting from development in flood hazard areas.
- B. Classification. The following classification system will be used to determine the level of protection necessary for frequently flooded areas:
  - a. Class I. The floodway of any river or stream as designated by FEMA; and draws, alluvials and flood channels that are not mapped by FEMA but are areas of local concern that have a historical reoccurrence of flood events characterized by significant damage from flood flows.
  - b. Class II. All areas mapped by FEMA as the 100-year floodplain; and those areas of local concern that experience recurrences of flooding that are characterized by damage due primarily to inundation.
- C. Designation. The city of Tonasket designates those areas of special flood hazard indicated in the Flood Hazard Boundary Map/Flood Insurance Rate Map and Flood Boundary/Floodway Map, together with the accompanying Flood Insurance Study for Community Panel No. H&I-01 dated January 5, 1978, or hereafter updated (see Map III-7 in the Map Appendix). Since flood hazards are not necessarily constrained to those areas detailed in the flood insurance study and maps, the channel migration zone may provide additional mapping for the areas of local concern.
- D. General Standards. In addition to the general provisions of this chapter and the requirements of the underlying zone, the following minimum standards shall apply to development activities within and adjacent to frequently flooded areas:
  1. All development within Class I and Class II frequently flooded areas shall be reviewed under and subject to the requirements of Chapter 15.16 TMC, Flood Damage Prevention.
  2. Where frequently flooded areas coincide with other designated critical areas, critical areas reports and mitigation plans shall address any combined functions and values.
  3. Structures shall be located outside of frequently flooded areas except where no alternative location exists.
  4. Following construction of a structure within the floodplain where base flood elevation is provided, the applicant shall obtain an elevation certificate that records the elevation of the lowest floor. The elevation certificate shall be completed by a surveyor or engineer licensed in the state of Washington and shall be submitted to the city for recording.



5. Fill and grading in the floodplain shall only occur upon a determination by a qualified professional that the fill or grading will not block side channels, inhibit channel migration, increase flood hazards to others, or be placed within a defined channel migration zone, whether or not the city has delineated such zones as of the time of application.
6. Subdivision in frequently flooded areas is subject to the following:
  - a. All lots created shall have adequate building space outside flood hazard areas, including the floodway, 100-year floodplain, and channel migration zones.
  - b. Plat maps shall indicate floodway, 100-year floodplain and channel migration zones;
  - c. Subdivisions shall be designed to minimize or eliminate the potential for flood damage; and
  - d. Subdivisions shall provide for storm water drainage, in accordance with city standards, so as to reduce exposure to flood hazards;
  - e. Variances on lot sizes may be granted if it is shown that the floodway, 100-year floodplain, and channel migration zone have been avoided and therefore result in smaller lots than the underlying zone or Tonasket Shoreline Master Program requires. Variances may only be granted in accordance with uses described in TMC 18.06.030, Reasonable Use Exception.

#### **18.06.150 Geologically hazardous areas.**

Development, uses and activities within identified geologically hazardous areas (see Maps III-8 and 8A and 8B in the map appendix of the comprehensive plan) shall comply with the regulations contained in this chapter.

A. Classification. Known geologically hazardous areas within Tonasket consist of erosion hazard areas, including steep slopes. As more information is obtained that demonstrates the existence of other types and/or areas of geologically hazardous areas, these types and/or areas shall be classified and protected in accordance with the provisions of this chapter.

1. The following general classification system will be used to determine the level of protection necessary for geologically hazardous areas, based upon the risk to development:
  - a. Known or suspected risk;
  - b. No risk;
  - c. Risk unknown.
2. The following criteria shall be used in determining the status of an area as a particular type of geologically hazardous area:
  - a. Erosion hazard areas are those that contain all three of the following characteristics:
    - i. A slope of 15 percent or greater;

- ii. Soils identified by the NRCS as unstable and having a high potential for erosion; and
  - iii. Areas that are exposed to the erosion effects of wind or water.
- b. Landslide hazard areas are those that may contain any of the following circumstances:
- i. All areas that have historically been prone to landsliding;
  - ii. All areas containing soil types identified by the NRCS as unstable and prone to landslide hazard;
  - iii. All areas that show evidence of or are at risk from snow avalanches; or
  - iv. All areas that are potentially unstable as a result of rapid stream incision or stream bank erosion.

B. Designations. Each type of geologically hazardous area is designated based on different factors. The designation process for each type follows:

1. Erosion Hazard Areas. NRCS soil erosion hazard ratings are interpretations of the potential for erosion, applied to broadly generalized map units. They do not pinpoint erosion sites, but rather areas that, because of soil properties, availability of water, etc., are more susceptible to severe erosion than others. The NRCS maps will be used to identify areas of erosion potential. The soil information needs to be combined with site-specific information (rills, interrills, and wind erosion) to determine if erosion hazard is present on the site. The soil types that have erosion hazard potential are identified on Map III-8.
2. Landslide Hazard Areas. Lands that meet the classification criteria are hereby designated as landslide hazard areas and should be mapped, as resources become available.
3. Mine Hazard Areas. Lands that meet the classification criteria are hereby designated as mine hazard areas and will be mapped, as resources become available.
4. Seismic Hazard Areas. There are no known active faults in Tonasket. The majority of the City is located within Seismic Zone D<sub>0</sub> in accordance with the International Building Code.
5. Volcanic Hazard Areas. There are no volcanic hazard areas in Tonasket. There are, however, several active volcanoes that could have impacts on areas of the City, particularly the fallout of ash. There is no way to prevent the impacts of fallen ash, but there are ways to respond to the ash that could lessen its impacts.

C. Determination Process – Geologically Hazardous Area. The city shall review each land use permit application to determine if the provisions of this section shall be initiated. In making the determination, the city may use any resources identified in this chapter, as well as any previously completed special reports conducted in the vicinity of the subject proposal. The following progressive steps shall occur upon a determination by the city that a geologically hazardous area may exist on a site proposed for a development permit:

1. Step One. City staff shall determine if there is any possible geologically hazardous area on site designated by this section. This determination shall be made following a review of information available and a site inspection if appropriate. If no hazard area is determined to be present, this chapter shall not apply to the review of the proposed development.
  2. Step Two. If it is determined that a geologically hazardous area may be present, the applicant shall submit a geologic hazard area risk assessment prepared by an engineer or a geologist. The risk assessment (geotechnical report) shall include a description of the geology of the site and the proposed development; an assessment of the potential impact the project may have on the geologic hazard; an assessment of what potential impact the geologic hazard may have on the project; appropriate mitigation measures, if any; and a conclusion as to whether further analysis is necessary. The assessment shall be signed by and bear the seal of the engineer or geologist that prepared it. No further analysis shall be required if the geologic hazard area risk assessment concludes that there is no geologic hazard present on the site, nor will the project affect or be affected by any potential geologic hazards that may be nearby.
  3. Step Three. If the professional preparing the risk assessment in step two concludes that further analysis is necessary, the applicant shall submit a geotechnical report.
  4. The geotechnical report shall include a certification from the engineering geologist or geotechnical engineer preparing the report, including the professional's stamp and signature. The geotechnical report shall include the following:
    - a. A description of the geology of the site;
    - b. Conclusions and recommendations regarding the effect of geologic conditions on the proposed development;
    - c. Conclusions and recommendations on the suitability of the site to be developed;
    - d. An evaluation of the actual presence of geologic conditions giving rise to the geologic hazard;
    - e. An evaluation of the safety of the proposed project;
    - f. Identification of construction practices, monitoring programs and other mitigation measures necessary;
    - g. A bibliography of scientific citations shall be included as necessary;
    - h. A statement regarding:
      - i. The risk of damage from the project, both on and off site;
      - ii. Whether or not the project will materially increase the risk of occurrence of the hazard;
      - iii. The specific measures incorporated into the design and operational plan of the project to eliminate or reduce the risk of damage due to the hazard.
- D. Standards. In addition to the general provisions of this chapter and the requirements of the underlying zone, the following minimum standards shall apply to development activities within and adjacent to geologic hazard areas:
1. Critical areas reports for a geologically hazardous area shall include a geotechnical analysis completed by a qualified professional with expertise in the particular hazard(s) present in a given critical area.

2. Alterations of geologically hazardous areas or associated setbacks may only occur for activities that:
  - a. Will not increase the threat of the geological hazard to adjacent properties beyond predevelopment conditions;
  - b. Will not adversely impact other critical areas;
  - c. Are designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than predevelopment conditions; and
  - d. Are certified as safe as designed and under anticipated conditions by a qualified engineer or geologist, licensed in the state of Washington.
3. Critical areas reports and mitigation plans for geologically hazardous areas shall establish setbacks as needed to eliminate or minimize risks of property damage, death, or injury resulting from development of the hazard area. Where established, setbacks shall be maintained between all permitted uses and activities and the designated geologically hazardous area(s).
4. Unless otherwise provided or as part of an approved alteration, removal of vegetation from an erosion or landslide hazard area or related setback area shall be prohibited.
5. Structures and improvements shall be clustered to avoid geologically hazardous areas and other critical areas in so far as clustering does not alter the underlying zoning densities.
6. Development and activities located within landslide or erosion hazard areas shall provide for long-term slope stability, and design shall incorporate the following standards:
  - a. Structures and improvements shall minimize alterations to the natural contour of the slope and foundations shall be tiered where possible to conform to existing topography;
  - b. Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation;
  - c. The proposed development shall not result in greater risk or a need for increased setbacks on neighboring properties;
  - d. The use of retaining walls that allow the maintenance of existing natural slope area is preferred over graded artificial slopes; and
  - e. Development shall be designed to minimize impervious lot coverage.
7. Utility lines and pipes shall be permitted in erosion and landslide hazard areas only when the applicant demonstrates that no other practical alternative is available.
8. Subdivision of lands in erosion, landslide, and mine hazard areas is subject to the following:

- a. Land that is located wholly within an erosion, landslide or mine hazard area or associated setback areas may not be subdivided. Land that is located partially within an erosion, landslide, or mine hazard area or associated setback areas may be divided; provided, that each resulting lot has sufficient buildable area outside of, and will not affect, the geologic hazard area.
  - b. Access roads and utilities may be permitted within the erosion, landslide or mine hazard area and associated setback areas only if no other feasible alternative exists. (Ord. 610 § 2 (Exh. A § 6), 2009)
9. All mitigation measures, construction techniques, recommendations and technical specifications provided in the geotechnical report shall be applied during the implementation of the proposal. The engineer of record shall submit sealed verification at the conclusion of construction that development occurred in conformance with the approved plans.
  10. A proposed development cannot be approved if it is determined by the geotechnical report that either the proposed development or adjacent properties will be at risk of damage from the geologic hazard, or that the project will increase the risk of occurrence of the hazard, and there are no adequate mitigation measures to alleviate the risks.
  11. New development or the creation of new lots that would cause foreseeable risk from geological conditions to people or improvements during the life of the development shall be prohibited.
  12. New development that would require structural stabilization over the life of the development shall be prohibited. Exceptions may be made for the limited instances where stabilization is necessary to protect allowed uses where no alternative locations are available and no net loss of ecological functions will result. The stabilization measures shall conform to WAC 173-26-231.
  13. Where no alternatives, including relocation or reconstruction of existing structures, are found to be feasible, and less expensive than the proposed stabilization measure, stabilization structures or measures to protect existing primary residential structures may be allowed in strict conformance with WAC 173-26-231 requirements and then only if no net loss of ecological functions will result.
  14. All projects shall comply with the applicable federal, state and local regulations, including the adopted building code per TMC Title 15;
  15. As determined through the site-specific study, appropriate buffers shall be maintained between all permitted uses and activities and the designated geologically hazardous area(s);
  16. The existing native vegetation within the buffer area(s) shall be maintained, except that normal, nondestructive pruning and trimming of vegetation for maintenance purposes is allowed;
  17. As determined through the site-specific study, appropriate drainage, grading, excavation and erosion control measures shall be implemented in the geologically hazardous area(s);
  18. As determined through the site-specific study, mitigation measures shall be implemented that maintain the integrity of the geologically hazardous area(s);
  19. As determined through the site-specific study, appropriate management and monitoring plan(s) shall be developed and implemented to preserve and protect both the geologically hazardous

area(s) and the project, with any necessary surety to ensure compliance with such plan(s) being provided as described in TMC 18.06.030(J); and

20. A use or structure established prior to the effective date of this chapter, which does not conform to standards set forth herein, is allowed to continue and be reasonably maintained; provided, that such activity or structure shall not be expanded or enlarged in any manner that increases the extent of its nonconformity. (Ord. 746 § 2 (Exh. A), 2014).

#### **18.06.160 Enforcement.**

K. Penalties for Noncompliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a violation of the Tonasket Municipal Code and are addressed as follows:

1. Administrative, Technical and Procedural Violations. Because of their nature the following are civil infractions:

- a. Noncompliance. Any person who fails to conform to the terms of a permit issued under this title or who undertakes work or use of an improvement without first obtaining any permit required under this title or fails to comply with a cease-and-desist order issued under these regulations shall also be subject to a civil penalty subject to the provisions of Chapter 1.08 TMC. Each permit violation or each day of continued work and/or use without a required permit shall constitute a separate violation.

- b. Aiding and Abetting. Any person who, through an act of commission or omission, procures, aids, or abets in the violation shall be considered to have committed a violation for the purposes of the civil penalty.

2. Endangerment and/or Refusal to Protect Violations. In addition to incurring a civil liability under an action for abatement, the following acts or omissions because of their nature shall be instances of a gross misdemeanor and shall be punished by a fine of not less than \$100.00 nor more than \$1,000, or by imprisonment in the county jail for not more than 90 days for each separate offense, or by both such fine and imprisonment; provided, that the fine for each separate offense for the third and all subsequent violations in any five-year period shall be not less than \$500.00 nor more than \$10,000.

- a. Maintaining a Damaging Condition. Any person who maintains a condition, or conducts and/or allows the conduction of an activity in a manner that is damaging a critical area shall be guilty of a gross misdemeanor.

- b. Failure to Comply with Final Notice and Order to Abate. If, after any order to abate of the administrator made pursuant to this title has become final, the person or persons to whom such order is directed shall fail, neglect or refuse to obey such order, such person is guilty of a gross misdemeanor.

3. Violator Liabilities – Damages, Attorney’s Fees/Costs. Any person subject to the regulatory provisions of this title who violates any provision thereof or permit issued pursuant thereto shall be liable for all damage to public or private property arising from such violation, including the cost of restoring the affected area to a safe and stable condition.

4. Violations Declared a Public Nuisance. All violations of this title are hereby declared a public nuisance and may be abated in a manner as prescribed by Chapter 15.08 TMC.

L. Nothing herein contained shall prevent the city of Tonasket, Washington, from taking such other lawful action as is necessary to prevent or remedy any violation.

M. Abrogation and Greater Restrictions. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 746 § 2 (Exh. A), 2014).