

Critical Areas Ordinance

Chapter I - General Provisions

1.1 Purpose.

The following regulations are established pursuant to the critical areas requirements of the Growth Management Act RCW Chapter 36.70A (GMA). Use and improper use of areas defined by the State of Washington as critical to the public health, safety, and welfare can result in increased local government costs. Sprawl and unwise development in areas susceptible to natural hazards may lead to inefficient use of limited public resources, jeopardize environmental resource functions and values, subject persons and property to unsafe conditions, and affect the perceived quality of life.

Some of these areas are critical because of the hazard they present to public health and safety (e.g. critical recharge areas, frequently flooded areas, and geologically hazardous areas); others are critical because of the values they represent to the public welfare (e.g. wetland and fish/wildlife habitat protection, control of floodwaters, preservation of water quality, preservation of open space). There are qualitative differences between and among critical areas. Not all critical areas are important for the same reasons; in some cases the risk posed to the public by use or development of a critical area can be mitigated or reduced with proper engineering or design. In all cases, the current rights of land owners need to be weighed in comparison to the benefit/risk to public health, safety and welfare.

1.2 Applicability.

These provisions apply to all activities, unless exempted, in unincorporated areas of Klickitat County; they are, in effect, an over-lay on existing land use regulations. Classifying, inventorying, and designating lands or areas does not imply a change in a landowner's right to use his/her land under current law. However, development permits may be conditioned, or denied to ensure that the proposed action is consistent with this title, as well as current ordinances. This ordinance applies to all permits or land use approvals issued by the County and grading/clearing activity as specified in Section 1.3. Grounds maintenance, and routine weeding activity is not subject to this title.

Compliance with the provisions of this Title does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required (for example, Shoreline Substantial Development Permits, Hydraulic Project Approval, Army Corps of Engineer Section 404 permits, National Pollution Discharge Elimination System permits, Endangered Species Act compliance, etc.). The applicant is responsible for complying with these requirements, apart from the process established in this Title.

If an applicant has already performed a critical areas review under other laws for other permitting agencies, the county will not require duplicative review but will consider whether the review previously taken, including mitigation conditions and any buffer requirements imposed, is satisfactory to comply with the critical areas ordinance.

1.3 General Exemptions.

The following activities shall be exempt from filing permits required by this chapter. Exempted activities authorized by the county shall be consistent with all policies and provisions set forth by this chapter and shall require written approval from the county where applicable.

- A. Activities or uses conducted pursuant to RCW Chapter 76.09 (Forest Practices)—except for Class IV timber harvest practices—and WAC Chapter 222 (Forest Practices Board), whereby state law specifically limits local authority, except with regard to developments and conversions requiring local approval;
- B. Existing agricultural or ranching activities, including farming, irrigation, and ranching; existing agricultural or ranching activities are those that have been conducted during two of the past five years.
- C. All reconstruction, normal and routine maintenance, operation, and repair of existing public and private right-of-way and utility infrastructure, and other existing structures or appurtenances provided that reconstruction of any such facility does not extend outside the previously disturbed area;
- D. All normal and routine survey, control, or removal of noxious weeds as authorized by the Klickitat County Noxious Weed Control Board, unless temporary or permanent destruction of critical area habitat functions and values will occur;
- E. Any project approved by the Washington State Department of Fish and Wildlife via Hydraulic Project Approval (HPA) for restoration of an eroded or unstable stream bank or shoreline that employs principles of bioengineering; including limited use of rock as a stabilization only at the toe of a bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water;
- F. Minimal site investigative work required by a landowner, local, state or federal agency, such as surveys, soil logs, percolation tests and other related activities. This does not include activities related to oil, gas, or mineral exploration and associated activities;
- G. Construction or modification of navigational aids such as channel markers and anchor buoys;
- H. Maintenance of artificially created wetlands or surface water systems, which were intentionally created on uplands, including irrigation and drainage ditches, grass-lined swales and canals, farm ponds and stock watering facilities, detention facilities, and landscape or ornamental amenities; and
- I. All emergency actions which must be undertaken immediately or for which there is insufficient time for full compliance with this ordinance when it is necessary to:
 - prevent an imminent threat to public health or safety; or
 - prevent imminent danger to public or private property.

Adverse impacts to ecological functions resulting from emergency actions shall be adequately mitigated after the threat or danger has been addressed.

- J. The critical areas ordinance applies to all grading activity which takes place on 10,000 square feet or more. For grading on 4,000-10,000 square feet a critical areas checklist will be filled out, which will be used to assess whether the critical areas ordinance should be applied. If the activity will adversely impact the functions and values of critical areas then the critical areas ordinance applies as it would to any other activity involving over 10,000 square feet of grading. The purpose of this exemption is to allow activities which would

otherwise be subject to the critical areas ordinance but which are unlikely to adversely impact the functions and values of critical areas, and so do not require additional mitigation under this chapter.

1.4 Non-Conforming Use and Structures.

All issues relating to Non-Conforming Uses or structures shall be processed in accordance with Section 5 of the Klickitat County Zoning Ordinance No. 62678 (KCC Chapter 19.58).

1.5 Violations and Penalties.

Noncompliance with any section of this ordinance may result in enforcement actions. The director of the Planning Department, as administrator of the critical areas ordinance, is authorized to enforce all of the provisions of the critical areas ordinance. The director of the planning department may request the assistance of the sheriff's department and/or building department, and in such instances they shall have full powers pursuant to Klickitat County Code Chapter 1.20 and other chapters to enforce the critical areas ordinance. Any person or entity violating the provisions of the critical areas ordinance is punishable pursuant to the procedures set forth in Klickitat County Code Chapter 1.20 and Chapter 7.80 RCW.

Citizen complaints may be submitted to code enforcement. The complaint shall be submitted on violation/complaint forms provided by the code enforcement officer. The violation/complaint form shall include sufficient factual information on which to substantiate the complaint, and shall reference the sections of the code which have been violated. The form should be accompanied by any available, relevant evidence, such as pictures of the violation, maps or reports.

1.6 Appeals and Variances.

- A. Applicants may request a variance. The variance criteria and procedures set forth in county code shall be utilized. (See Klickitat County Code Chapter 19.60).
- B. If critical areas review is associated with a county permit, any appeal issues associated with critical areas review must be incorporated into a timely appeal of that permit, in accordance with the administrative appeal remedies available through the county code.
- C. If critical areas review is not associated with another county permit, then appeals of the final review decision may be filed by the applicant with the Board of Adjustment within 14 calendar days of the date a final decision on critical areas code compliance is issued.

1.7 Severability.

If any provision of this title or its application to any person or circumstance is held invalid, the remainder of this title or the application of its provisions to other persons or circumstances shall not be impaired or otherwise affected. The degree of risk protection and required by this chapter is considered reasonable for regulatory purposes and is based upon scientific and engineering considerations.

1.8 Liability.

This chapter does not imply that land outside of a critical area or use permitted within such areas will be free from exposure or damage by natural disasters. This chapter shall not create liability on the part of the County or any officer or employee thereof for any damages that result from reliance on this chapter or administrative decision lawfully made hereunder. Upon issuance of a permit, the permit holder is solely responsible to comply with other local, state and federal laws.

1.9 Reasonable Use.

- A. If the application of this Ordinance would deny all reasonable use of the property, development may be allowed that is consistent with the general purposes of this Ordinance and the public interest.
- B. An application for a critical area reasonable use exception shall be filed with the County Planning Department. The application shall include information on how the criteria in 1.9(c) will be met, including a proposed mitigation plan. The Planning Department shall make a recommendation on whether the reasonable use exception shall be approved. The recommendation shall be based on the criteria listed in 1.9(c) below.
- C. The Board of County Commissioners shall issue a final decision after considering the Planning Department's recommendation. The proposed use shall be allowed provided that:
 - 1. Application of this ordinance would deny all reasonable use of the property;
 - 2. There is no other reasonable use with less impact on the critical area;

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3. The proposed development does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
4. Any alteration is the minimum necessary to allow reasonable use of the property;
5. Any authorized alteration of a critical area under this section shall require mitigation under an approved mitigation plan; and
6. The inability of the applicant to derive reasonable use of the property is not the result of actions by the applicant after the effective date of this Title.
7. The Board of County Commissioners shall make its decision at a public hearing. The decision will be based on information submitted to the Planning Department, the Planning Department's recommendation, and other relevant information. The hearing may be combined with other hearings on a permit application. Any hearings that are combined shall be before the designated hearing body with the highest level of authority.

1.10 Process for Critical Areas Review.

Critical areas review is required for permits or land use approvals issued by the County and for certain grading/clearing activity. *See* Section 1.2 – Applicability, and Section 1.3 – Exemptions. When review is triggered because a land use approval or development permit is required, the review procedures of the other permit(s) or approval(s) will apply.

1.11 Critical Areas Checklist.

The County may utilize a critical areas checklist to assist in its application of the critical areas ordinance, and to determine whether the exemption for grading activity between 4,000 and 10,000 square feet is applicable. The checklist shall include a list of questions concerning the location and significance of critical areas which may be on a particular property.

Chapter II - Definitions

For purposes of this title, the following words shall have the definitions as set out below.

Applicant means any person, public agency, or business entity such as a corporation or partnership which applies for a development proposal, permit, or approval subject to review under this chapter.

Critical Aquifer Recharge Area (CARA) means ~~Areas~~ areas with a critical recharging effect on aquifers used for potable water. ~~These~~ are areas where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water.

Buffer means that area which surrounds and protects a critical area from adverse impacts to the functions and values of that area. Buffers are to be maintained in their natural condition and are to remain undisturbed, except that activities in buffer areas that enhance fish and wildlife conservation areas are permitted.

Classification means defined categories to which critical areas are assigned.

Critical areas include the following areas and ecosystems:

- (a) Wetlands;
- (b) Areas with a critical recharging effect on aquifers used for potable water;
- (c) ~~Critical~~ fish and wildlife habitat conservation areas;
- (d) Frequently flooded areas; and
- (e) Geologically hazardous areas.

Designation means the identification of particular lands for classification. For planning purposes, designation establishes: a classification scheme, general land distribution and location, and extent of land use.

Flood means a temporary rise in stream flow or stage that results in water overtopping its banks and inundating areas adjacent to the channel.

Frequently flooded areas are lands in the floodplain subject to a one percent or greater chance of flooding in any given year. These areas are further defined in Chapter 7 of the critical areas ordinance.

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

Habitat of local importance A habitat is of local importance if a species of local importance has a primary association with it.

Mitigation means active steps taken to avoid, minimize, or compensate for adverse impacts upon the functions and values of critical areas. In some cases, the critical areas ordinance will specify the required mitigation, such as providing for buffer widths. In other instances, the applicant will develop mitigation. One or all of the below measures may be taken to address

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project impacts. The measures are listed in the preferred mitigation order:

- Avoiding the impact altogether by not taking a certain action or part(s) of an action;
- Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
- Rectifying the impact by repairing, rehabilitating or restoring the affected environment;
- Reducing the impact over time by preservation and maintenance operation during the life of the action;
- Compensating for the impact by replacing, enhancing, or providing substitute resources or environments;
- Monitoring the impact and the compensation project and taking appropriate corrective measures. Mitigation for individual actions may include a combination of the above measures.

Ordinary high water mark (OHWM) is that mark which is found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, that the soil has a character distinct from that of the abutting upland in respect to vegetation.

Performance standards means a measure, control, procedure, or process which ensures the protection or preservation of critical areas.

Primary association Areas in which a species has a primary association are those areas in which there is a high relative density or species richness, and the area is significant for providing breeding habitat, winter range, or movement corridors.

Qualified professional means an accredited or licensed professional with a combination of education and experience in a discipline appropriate for the subject matter that is being commented on; someone who would qualify as an expert in their field.

Species of local importance A species is of local importance if its population is vulnerable (i.e. it is endangered, threatened or sensitive), it is vulnerable to habitat manipulation, or it is a game species. The species must also be native or indigenous to Washington State.

Waters of the state means all salt waters and fresh waters waterward of ordinary high water lines and within the territorial boundaries of the state.

Wetland or wetlands means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds and stock watering facilities, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street or highway. However, wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands.

Wetland functions and values The beneficial roles served by wetlands that may include but are not limited to: water quality protection and enhancement; fish and wildlife habitat; food chain support; flood storage, conveyance and attenuation; groundwater recharge and discharge; erosion control; and aesthetic value protection.

Chapter III - Wetlands

3.1 Purpose.

The purpose of this chapter is to provide standards for classification and designation of wetlands; and provide guidance for protecting those wetlands necessary to maintain the public health, safety, and welfare (e.g. wetlands that lend to reduction of erosion, siltation, flooding, ground and surface water pollution, recharge streams and aquifers, and provide habitat for fish and wildlife).

3.2 Classification and Designation.

A. Approximate wetland locations shall be identified using National Wetlands Inventory maps, information furnished by the applicant (per a checklist provided by the county), and/or other information provided by qualified professionals or other agencies.

~~If information indicates the presence of a wetland in excess of 2,500 square feet, the applicant shall either:~~

- ~~-Agree to a buffer in excess of 300', for all development, from the wetland location. The wetland buffer shall be delineated on all maps submitted to the county, including short and long plats; or~~
- ~~-If the applicant wishes to develop within 300' of a wetland or it appears that sufficient area does not exist for development beyond the buffer, Wetland boundaries shall be delineated using the currently approved federal manual and supplements and impacts shall be mitigated as specified below.~~

~~All wetlands greater than 2,500 square feet shall be designated wetlands. Wetlands identified through the permitting process shall be mapped and shall provide guidance in the land use decision making process. All sites which maintain wetlands, including those wetlands which are not mapped, shall be subject to wetland review so stated in this chapter.~~

B. Designating Wetlands. Wetlands are those areas, designated in accordance with the approved federal wetland delineation manual and applicable regional supplements that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions.

C. Wetland Ratings. Wetlands shall be rated according to the Washington Department of Ecology wetland rating system, as set forth in the Washington State Wetland Rating System for Eastern Washington (Ecology Publication #14-06-030, or as revised and approved by Ecology) which contains the definitions and methods for determining whether the criteria below are met:

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1. Category I Wetlands. Wetlands which are: alkali wetlands, wetlands that have been identified through the Washington Natural Heritage Program (DNR) as wetlands with high conservation value, bogs, mature old-growth forested wetlands over one-fourth acre with slow-growing trees, forests with stands of aspen, and wetlands that perform many functions very well function at a very high level (scores 22-27 points). These are wetlands which meet at least one of the following criteria: 1) represent a unique or rare wetland type; or 2) are more sensitive to disturbance than most wetlands; or 3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; 4) provide a high level of functions; or 5) documented wetlands of local significance.
2. Category II Wetlands. Category II wetlands are difficult, though not impossible, to replace, and provide high levels of some functions (scores between 19 and 21 points). These wetlands occur more commonly than Category I wetlands, but still need a relatively high level of protection.
3. Category III wetlands. Category III wetlands are 1) vernal pools that are isolated, and 2) wetlands with a moderate level of functions (scores between 16 and 18 points). Wetlands scoring between 16 and 18 points generally have been disturbed in some ways, and are often smaller, less diverse and/or more isolated from other natural resources in the landscape than Category II wetlands.
4. Category IV Wetlands. Category IV wetlands have the lowest levels of functions (scores fewer than 16 points) and are often heavily disturbed.

3.3 Performance Standards.

- A. The following uses shall be regulated to achieve, at a minimum, no net loss of wetland area and functions, including lost time when the wetland does not perform the function:
 1. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind;
 2. The dumping, discharging, or filling with any material, including discharges of stormwater and domestic, commercial, or industrial wastewater
 3. The draining, flooding, or disturbing of the water level, duration of inundation, or water table;
 4. The driving of pilings;
 5. The placing of obstructions;
 6. The construction, reconstruction, demolition, or expansion of any structure;
 7. Significant vegetation removal, provided that these activities are not part of a forest practice governed under chapter 76.09 RCW and its rules;

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- 8. Other uses or development that results in an ecological impact to the physical, chemical, or biological characteristics of wetlands; or
- 9. Activities reducing the functions of wetland buffers.

A.B. If a proposal is located within 300 feet of a wetland, the applicant shall provide a wetland boundary/delineation/survey and wetland rating, with analysis of impacts to existing ecological functions prepared by a qualified professional. Wetland boundaries shall be delineated using the currently approved federal manual and supplements. Impacts shall be mitigated pursuant to adherence to appropriate buffers. Impacts that will not be mitigated by buffers will be mitigated pursuant to mitigation sequencing.

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A.C. If it is determined that a proposed development is not within 300 feet of a wetland, then the proposed development will not be reviewed for impacts to wetlands under this Chapter.

A.D. The following buffers shall be maintained between the delineated wetland and the activity triggering critical area ordinance review: Wetland buffers: The width of the standard buffer shall be based on the wetland category and the intensity of the proposed land use adjacent to the buffer as indicated in the table below.

Category	Buffers
I	300'
II	200'
III	75'
IV	75'

<u>Wetland Category</u>	<u>Land Use with Low Impact</u>	<u>Land Use with Moderate Impact</u>	<u>Land Use with High Impact</u>
I	<u>125 ft</u>	<u>190 ft</u>	<u>250 ft</u>
II	<u>100 ft</u>	<u>150 ft</u>	<u>200 ft</u>
III	<u>75 ft</u>	<u>110 ft</u>	<u>150 ft</u>
IV	<u>25 ft</u>	<u>40 ft</u>	<u>50 ft</u>

- 1. High intensity use and developments include: commercial, urban, industrial, institutional, retail sales, residential (more than 1 unit/acre), conversion from non-agricultural lands to high intensity agriculture (dairies, animal feed lots, nurseries and green houses, and like uses), high intensity recreation (golf courses, ball fields, and like uses) and hobby farms. Moderate intensity use and developments include: residential (1 unit/acre or less), moderate intensity open space (parks with biking, jogging, and like uses), conversion from non-agricultural lands to moderate intensity agriculture (orchard, hay fields, and like uses), paved trails, building of logging roads, and utility corridor or right-of-way shared by several utilities and including access/maintenance roads. Low intensity use and developments include: forestry (cutting of trees only), low intensity open space (hiking, bird-watching, and like uses), unpaved trails, and

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utility corridor without a maintenance road and little or no vegetation management.

2. Wetland buffer condition: Wetland buffer areas shall be retained in a natural condition or may be improved to enhance buffer functions and values. Where buffer disturbance is allowed, re-vegetation with native vegetation shall be required. Alterations of the wetland buffer that are not associated with an allowed use or development shall be prohibited.
3. Interrupted buffer: When a wetland buffer contains an existing legally established public or private road, the Administrator may allow development on the landward side of the road provided that the development will not have a detrimental impact to the wetland. The applicant may be required to provide a wetland critical areas report to describe the potential impacts. In determining whether a critical areas report is necessary, the County shall consider the hydrologic, geologic, and/or biological habitat connection potential and the extent and permanence of the buffer interruption.
4. Buffers of restored wetlands: The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland.
- ~~4.5.~~ Averaging of required wetland buffer width shall be allowed if a qualified professional prepares a mitigation plan that demonstrates no net loss of existing wetland ecological functions will result. In no case shall the total area within the averaged buffer area be less than the area contained within the required buffer areas without averaging, and no portion of an averaged buffer area shall be reduced by more than 25 percent of the standard buffer width or be less than 25 feet wide, whichever is greater. Averaging of required wetland buffer width shall be allowed if the applicant demonstrates that wetland functions and values will not be reduced. In no case shall the total area within the averaged buffer area be less than the area contained within the required buffer area without averaging, and no portion of an averaged buffer area shall be reduced by more than 50% of the standard buffer width or be less than 50 feet wide, except for buffers between Category IV wetlands and adjacent uses. This would mean that buffer averaging would result in the minimum width for each of the categories being:
6. Allowed Buffer Uses: The Director may allow the following alterations and development within a wetland buffer provided that they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland, including wetland functions and values:
 - (a) Conservation or restoration activities aimed at protecting or enhancing the soil, water, vegetation, or wildlife.
 - (b) The following passive recreation facilities designed in accordance with an approved critical areas report:

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- i. Walkways and trails; provided that those pathways which are generally parallel to the perimeter of the wetland shall be located in the outer twenty-five percent (25%) of the buffer area and constructed with a surface that is not impervious to water. Raised boardwalks utilizing non-treated pilings may be acceptable; and
- ii. Wildlife viewing structures less than five hundred (500) square feet in size, including hunting blinds.
- (c) Stormwater management facilities, limited to stormwater conveyance and dispersion facilities, outfalls and bioswales, may be allowed within the outer twenty-five percent (25%) of the buffer of wetlands in accordance with an approved critical areas report provided that:
 - i. No other location is feasible;
 - ii. The facility is designed to meet or exceed the standards set forth in the current version of the Stormwater Manual for Eastern Washington; and
 - iii. The location of such facility will not degrade the functions or values of the wetland

Category 1 = 150 feet

— Category 2 = 100 feet

— Category 3 = 50 feet

— Category 4 = 37.5 feet

B. Wetland Classification

~~Wetland rating shall be consistent with the critical areas ordinance, and shall use the *Department of Ecology's Washington State Wetland Rating System for Eastern Washington, Revised Version (2004)*. Subsequent revisions to the Ecology Rating System will also be used as guidance to the extent they do not present significant departures from the document as adopted in 2004. Wetlands over 2,500 square feet shall be classified consistently with the below definitions:~~

- ~~1. Category 1 wetlands are not common and make up a small percentage of the wetlands in the state. These are wetlands that (a) provide irreplaceable functions and values, ie. they are impossible to replace within a human lifetime, if at all (such as mature and old-growth forested wetlands over ¼ acre in size dominated by slow growing native trees); or (b) represent a high quality of a rare wetland type such as alkali wetlands, which are characterized by shallow saline water, or bog wetlands, which are low nutrient, acidic wetlands that have organic soils, and whose water regime is based on precipitation; or (c) are extremely high quality, relatively undisturbed, provide significant high quality wildlife habitat for sensitive plant and animal species, and provide important water quality and hydrologic functions; or (d) the wetland scores more than 69 points under the Ecology Rating System.~~

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~~2. Category 2 wetlands are wetlands which occur more commonly than Category 1 wetlands, and need a high level of protection. They provide very high functions and values, particularly for wildlife habitat. They include (a) forested wetlands within the flood plain of a river; (b) mature forested wetlands containing fast growing trees which are over ¼ acre in size; or (c) vernal pools present within a mosaic of other wetlands; or (d) the wetland scores 51-69 points under the Ecology Rating System.~~

~~3. Category 3 wetlands are wetlands which are important for a variety of wildlife species. Generally, these wetlands will be smaller, less diverse and/or more isolated than Category 2 wetlands. A moderate level of protection is required. They include, for example: (a) vernal pools that are isolated; or (b) wetlands which are either rare, or sensitive to disturbance; or (c) the wetland scores 30-50 points under the Ecology Rating System.~~

~~4. Category 4 wetlands are wetlands which do not meet the criteria for categories 1-3, and score less than 30 points under the Ecology Rating System. In some areas these wetlands may be providing important groundwater recharge and water pollution prevention functions. However, they are characterized by the lowest level of functions and are often heavily disturbed. They should be replaceable, and may be improved.~~

~~C. If a proposal is located within 300 feet of a wetland, the applicant shall provide the following reports prior to development authorization:~~

- ~~1. Wetland boundary delineation/survey;~~
- ~~2. Wetland rating; and~~
- ~~3. Wetland mitigation plan if the proposed development will encroach upon a wetland or its buffer.~~

~~D. If it is determined that a proposed development is not within 300 feet of a wetland, then the proposed development will not be reviewed for impacts to wetlands under this Chapter.~~

3.4 Wetland Mitigation.

A. Compensatory mitigation shall be allowed only after mitigation sequencing is applied and higher priority means of mitigation are determined to be infeasible.

~~A.B.~~ An alternative mitigation plan, prepared by a qualified professional, providing for restoration/enhancement, or replacement may be accepted if the mitigation plan will achieve no net loss of existing ecological functions. Mitigation of wetland losses and impacts shall be in the following descending order of preference:

1. Complete restoration.
2. In-kind replacement in the same functional area.
3. In-kind replacement outside the area.
4. Out-of-kind replacement inside the area.
5. Out-of-kind replacement outside the area.

~~B.C.~~ Wetland Mitigation Plan

1. The wetland mitigation plan shall identify how the proposed mitigation will adequately mitigate for the loss of wetland area and function at the impact site.
2. If mitigation is located off-site, the wetland mitigation plan shall assess whether an appropriate location has been identified to adequately replace lost wetland functions at the site of impact. The mitigation plan will evaluate the site to assess if a site has a high likelihood of success due to an adequate source of water, ability to control invasive species, appropriate adjacent land uses and development pressures, adequate buffers, connectivity to other habitats and other relevant factors.

~~C.D.~~ Alteration of wetlands shall require the creation, restoration or enhancement of wetlands to provide equivalent or greater area, functions and values. The below standard ratios shall apply to the creation of new wetlands or restoration of former wetlands. The first number specifies the area of wetlands requiring replacement and the second number specifies the area of wetlands altered. When impacts to wetlands are mitigated by enhancement of existing significantly degraded wetlands the ratio shall generally be higher than for creation or restoration because enhancement does not replace wetland area and only improves some wetland functions. Applicants proposing to enhance wetlands must identify how enhancement will increase the functions of the degraded wetland and how this increase will adequately mitigate for the loss of wetland area and function at the impact site. An enhancement proposal must also show whether existing wetland functions will be reduced by the enhancement actions.

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Category III.....	2:1
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1. The standard replacement ratio may be decreased under the following circumstances:
 - (a) Findings of special studies coordinated with agencies and/or other qualified individuals with expertise which demonstrates that no net loss of wetland function or value is attained under the decreased ratio.
 - (b) In all cases, a minimum acreage replacement ratio of 1:1 shall be required.

2. The standard replacement ratio may be increased under the following circumstances:
 - (a) High degree of uncertainty as to the probable success of the proposed restoration or creation;
 - (b) Significant period of time between destruction and replication of wetland functions;
 - (c) Projected losses in functional value; and/or
 - (d) Off-site compensation.

D.E. The applicant shall develop a plan that provides for land acquisition, construction, maintenance, and monitoring of replacement/compensatory wetlands. Mitigation shall be completed prior to wetland destruction or concurrent with development. Any restored, created, purchased, or enhanced wetland shall be maintained as a wetland in perpetuity. All wetland restoration, creation and/or enhancement projects required pursuant to this ordinance either as a permit condition or as the result of an enforcement action must be approved by the Planning Department prior to commencement of any wetland restoration, creation or enhancement activity.

Chapter IV – ~~Critical Fish/ and Wildlife Habitat Conservation Areas~~

4.1 Purpose.

The purpose of this chapter is to provide standards for classification and designation of ~~critical fish/ and~~ wildlife habitat conservation areas; and provide guidance for protecting those ~~critical fish/ and~~ wildlife habitat conservation areas necessary to maintain the public health, safety, and welfare.

4.2 Classification and Designation.

A. ~~Critical Fish and~~ Wildlife Habitat Conservation Areas Designation

~~Critical wildlife habitat conservation areas are:~~

- ~~• Areas with which known federal or state endangered, threatened, or sensitive species have a primary association (See Chapter II – Definitions);~~
- ~~• Habitats of local importance (this is a habitat in which a species of local importance has a primary association, See Chapter II – Definitions);~~
- ~~• Areas designated by the Washington State Department of Natural Resources as state natural area~~

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~~preserves and natural resource conservation areas;~~

~~Critical fish habitat conservation areas are:~~

- ~~• Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat;~~
- ~~• Waters of the State as defined in Title 222 WAC;~~
- ~~• Lakes, ponds, streams and rivers planted with game fish by a governmental or tribal entity.~~
 - ~~☐1. Areas where state or federal designated endangered, threatened, and sensitive species have a primary association.~~
 - ~~☐2. Habitats and species of local importance.~~
 - ~~☐3. Naturally occurring ponds under twenty (20) acres and their submerged aquatic beds that provide fish or wildlife habitat.~~
 - ~~☐4. Waters of the state, as classified in WAC 222-16-031.~~
- ~~5. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity.~~
- ~~6. State natural area preserves, natural resource conservation areas, and state wildlife areas.~~

B. Fish and Wildlife Habitat Conservation Areas Classification

~~B.~~

~~Water type shall be determined using the criteria set forth in WAC 222-16-030 and as described below. Artificially created structures, ditches, canals, ponds, irrigation return ditches, and stormwater channels shall not be considered a stream for purposes of this section.~~

- ~~1. **Type S:** all waters, within their ordinary high water mark, meeting the criteria as “shorelines of the state” and “shorelines of statewide significance” under RCW Chapter 90.58. The current list of Shoreline waters, along with their specific shorelines environments, is provided in the Klickitat County Shoreline Master Program. Type S streams and lakes are protected by the Shoreline Master Program, rather than through this Title.~~
- ~~2. **Type F:** segments of natural waters other than Type S Waters, which are within the bankfull widths of defined channels and periodically inundated area of their associated wetlands, or within lakes, ponds, or impoundments having a surface area of 0.5 acre or greater at seasonal low water and which in any case contain fish habitat.~~
- ~~3. **Type Np:** all segments of natural waters within the bankfull width of defined channels that are perennial non-fish habitat stream. Perennial stream waters do not go dry any time of a year of normal rainfall. However, for the purpose of~~

water typing, Type Np Waters include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow.

4. Type Ns: All segments of natural waters within the bankfull width of the defined channels that are not Type S, F, or Np waters. These are seasonal, non-fish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np, F or S Water. Ns Waters must be upstream from and physically connected by an above-ground channel system to Type S, F, or Np Waters.

1.

B.C. Mapping

Those lands which meet the established criteria for ~~critical-fish/ and~~ wildlife habitat conservation areas are to be designated as such. ~~Critical-fFish/ and~~ wildlife habitat conservation areas identified through the permitting process ~~shall be mapped~~ and shall provide guidance in the land use decision-making process. All sites which maintain ~~critical-fish/ and~~ wildlife habitat conservation areas, which are not mapped, shall be subject to ~~critical-fish/ and~~ wildlife habitat conservation area review.

The identification and location of habitats and species of local importance shall be based upon scientifically valid methods and studies, which may include materials submitted by the applicant, Washington State Department of Fish and Wildlife Priority Habitats and Species database maps, or other appropriate methods and studies.

4.3 Performance Standards.

- A. ~~Development shall be subjected to standard buffers unless a habitat management plan is prepared. Where a project is proposed within a Wildlife/Fish Habitat Conservation Area, and habitat functions and values are likely to be impaired by the project, a habitat management plan will be required, unless the exception noted below is met.~~ The limits of development and other related activities within the conservation area shall be based on the recommendations of the plan. The plan shall be prepared by a qualified professional. A plan is not required if the applicant places a particular emphasis on protecting the conservation area by avoiding the impact by not taking a certain action or part(s) of an action or minimizing impacts by limiting the degree or magnitude of the action and its implementation. If complex mitigation which requires the expertise of a qualified professional is necessary, a habitat management plan will be required ~~Wildlife/Fish Habitat Conservation Areas:~~

A.

- 1.B. Activities may be permitted within a conservation area subject to conditions designed to avoid probable, significant adverse impacts to the conservation area and to protect the functions and values of the conservation area, provided that the county may deny a project if probable, significant impacts to the conservation area cannot be avoided or if critical area function and value cannot be protected with mitigation.

2.

B.C. Buffers Fish Habitat Conservation Areas:

1. Standard Buffers (Measured horizontally from OHWM)

<u>Water Type</u>	<u>Standard Buffer</u>
<u>Type F Waters</u>	<u>150 feet</u>
<u>Type Np Waters</u>	<u>50 feet</u>
<u>Type Ns Waters</u>	<u>25 feet</u>

~~(a) Buffers Buffer (Measured horizontally from OHWM)~~

- ~~— Type S Waters 200 feet~~
- ~~— Type F Waters 150 feet~~
- ~~— Type Np Waters 50 feet~~
- ~~— Type Ns Waters 25 feet~~

~~2. Buffers for shoreline waterbodies are provided in the Klickitat County Shoreline Master Program. Definitions of “Waters”~~

~~2.~~

~~Waters listed as Type N by the Washington State Department of Natural Resources shall be presumed to be a Type Np Water unless an applicant submits documentation provided by a Qualified Professional confirming that conditions meet the criteria of a Type Ns Water. Water type shall be determined using the criteria set forth in WAC 222-16-030. Artificially created structures, ditches, canals, ponds, irrigation return ditches, and stormwater channels shall not be considered a stream for purposes of this section.~~

~~3.~~

~~4. Interrupted buffer: When a stream buffer contains an existing legally established public or private road, the Administrator may allow development on the landward side of the road provided that the development will not have a detrimental impact to the stream. The applicant may be required to provide a critical areas report to describe the potential impacts. In determining whether a critical areas report is necessary, the County shall consider the hydrologic, geologic, and/or biological habitat connection potential and the extent and permanence of the buffer interruption.~~

~~3.5. Averaging. Averaging of required buffer widths shall be allowed if the applicant demonstrates that buffer functions and values will not be reduced. In no case shall the total area within the averaged buffer area be less than the area contained within the required buffer area without averaging, and no portion of an averaged buffer shall be reduced by more than 50-25% of the standard buffer width or be less than 25 feet wide~~

~~4.6. Active Setback Maintenance. Buffer width reductions not exceeding 50-25%, and in no event less than 50-25 feet, may be approved if: a qualified professional prepares a management plan identifying landscaping and buffer maintenance measures, based on site characteristics (including the slope of the site, the uses on the site and proximate to the site, the ability of vegetation to uptake~~

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pollutants and runoff on the site) which effectively filters sediment and pollutants, and for fish bearing streams, protects fish habitat through incorporation of reasonable shading and vegetation/woody debris. The management plan must protect habitat functions and values, ensure no net loss of habitat, be maintained for the life of the project, and be recorded against the property.

2.7. Riparian vegetation in buffers shall not be removed, with the exception that a view/access corridor to the OHWM may be cleared to a width not to exceed 25' if habitat values will not be impacted and/or migration will be unaffected. If the functions and values of critical areas are impaired, mitigation will be imposed, such as widening the riparian buffer at the same location, or widening or enhancing the buffer at another location.

3.8. Buffers shall be delineated on all permits.

4.4 Fish and Wildlife Mitigation.

Wildlife Habitat Management Plans shall meet the following criteria:

- A. Plans shall be prepared by a qualified professional, at the expense of the applicant;
- B. Relevant background information shall be documented and considered;
- C. ~~Critical Fish~~ and wildlife habitat conservation areas shall be delineated if applicable;
- D. The size, scope, configuration or density of new uses and developments within a core habitat and wildlife buffer zone shall be designed to protect threatened, endangered, or sensitive wildlife species, and habitats and species of local importance. The timing and duration of uses and developments may be regulated to ensure that they do not occur during a time of year when species are sensitive to disturbance;
- E. Developments shall be generally discouraged within critical wildlife/fish habitat conservation areas. Any development permitted shall be mitigated as outlined in Section 4.3(A) and (B). Development may be conditionally authorized when the critical wildlife/fish habitat conservation area is inhabited seasonally; provided the development will have only temporary effects on the wildlife buffer zone and rehabilitation and/or enhancement will be completed before a particular species returns;
- F. If rehabilitation and enhancement actions are required, then they shall be documented in the wildlife management plan and shall include a map and text;
- G. The Plan shall include an analysis of the effect of the proposed use or activity upon critical wildlife and fish habitat conservation areas;

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H. The Plan shall explain how the applicant will avoid, minimize or mitigate adverse impacts to critical wildlife and fish habitat conservation areas created by the proposed use or activity. Mitigation measures within the plan may include, but are not limited to:

~~(i)~~ 1. Establishment of buffer areas;

~~(ii)~~ 2. Preservation of critically important plants and trees;

~~(iii)~~ 3. Limitation of access to habitat area;

~~(iv)~~ 4. Seasonal restriction of construction activities;

~~(v)~~ 5. Conservation easements.

I. The Plan shall incorporate use of scientifically valid methods and studies in the analysis of date and field reconnaissance.

Chapter V – Geologically Hazardous Areas

5.1 Purpose.

The purpose of this chapter is to provide standards for classification and designation of significant geologically hazardous areas; and provide guidance for reducing or mitigating hazards to public health and safety.

5.2 Classification and designation.

All geologically hazardous areas shall be divided into one of the following risk categories; erosion, landslide, seismic, volcanic, or mine hazard areas.

- A. Erosion Hazard Areas – areas identified as of Klickitat County which:
1. Contain soils or soils complexes identified by the U.S. Department of Agriculture's Natural Resource Conservation Service or the Soil Survey for Klickitat County as having "moderate to severe," "severe" or "very severe" erosion hazard potential; or
 2. Are impacted by shore land and/or stream bank erosion; or
 - A.3. ~~having~~ Have slopes in excess of fifteen percent ~~or soils rated by the Natural Resource Conservation Service (NRCS) as having moderate to very severe erosion potential.~~
- B. Landslide Hazard Areas – areas susceptible to landslides because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other physical factors. Potential landslide hazard areas exhibit one or more of the following characteristics identified as subject to mass movements due to their geologic, topographic, and/or hydrologic factors. Areas subject to landsliding are the following:
1. Sensitive Sloped Areas. Slopes exceeding thirty-five percent with a vertical relief of ten or more feet except areas composed of competent rock and properly engineered slopes designed and approved by a geotechnical engineer licensed in the state of Washington and experienced with the site;
 2. Areas mapped by the Washington State Department of Natural Resources (slope stability mapping) as unstable ("U"), unstable old slides ("UOS"), or unstable recent slides ("URS");
 3. Areas designated by the U.S. Department of Agriculture's Natural Resource Conservation Service as having "severe" limitation for building site development;
 4. Areas that have shown evidence of historic failure or instability, including but not limited to back-rotated benches on slopes; areas with structures that exhibit structural damage such as settling and racking of building foundations; and areas that have toppling, leaning, or bowed trees caused by ground surface movement;

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5. Slopes greater than fifteen percent that have a relatively permeable geologic unit overlying a relatively impermeable unit and having springs or groundwater seepage;
6. Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and undercutting by wave action;
7. Areas located in a canyon or active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding;
8. Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the U.S. Geological Survey or Washington State Department of Natural Resources;
9. Areas that are at risk of mass wasting due to seismic forces; and
10. Slopes having gradients steeper than eighty percent subject to rock fall during seismic shaking.

- ~~areas of historic failure of potentially unstable slopes;~~
- ~~areas with any combination of the following:~~
 - ~~— slopes of fifteen percent or greater;~~
 - ~~— permeable soils frequently overlying impermeable surfaces or soils; or~~
 - ~~— springs or groundwater seepage;~~
- ~~any slope forty percent or greater and with a vertical relief of ten plus feet, except areas composed of consolidated rock;~~
- ~~slopes greater than eighty percent subject to rockfall during seismic shaking;~~
- ~~unstable areas resulting from stream incision, erosion, or undercutting;~~
- ~~any area located on an alluvial fan; or~~
- ~~slopes that are parallel or subparallel to planes of weakness in subsurface materials such as bedding planes, fault planes, etc.~~

- C. Seismic Hazard Areas – Seismic hazard areas shall be as identified in Washington State Department of Natural Resources seismic hazard and liquefaction susceptibility maps for Eastern Washington and other geologic resources. Klickitat County is located within a ~~2B~~ C seismic zone, with no known active faults. All new development shall conform to the applicable provisions of the International Codes with Washington State Amendments ~~Uniform Building Code~~ which contain structural standards and safeguards to reduce risks from seismic activity.
- D. Volcanic – Volcanic risk is low, although ashfall could be expected during a volcanic event.
- E. Mine - The likelihood of the presence of underground mines within the County is believed to be remote.

Those lands which meet the established criteria for geologically hazardous areas are to be designated as such. Geologically hazardous areas identified through the permitting process shall be mapped and shall provide guidance in the land use decision-making process. All sites which maintain geologically hazardous areas, including those geologically hazardous areas which are not mapped, shall be subject to geologically hazardous areas review so stated in this chapter.

5.3 Performance Standards.

- A. Upon receipt of a complete development application, U.S.G.S. topographic maps and NRCS soil information shall be reviewed to determine if the proposed development is in a geologically hazardous area. If the proposed site is in a geologically hazardous area, the applicant shall be responsible for securing the services of a professional engineer/geologist who shall provide information as follows:
1. Maximum and average on-site slopes;
 2. Identification of groundwater seepage areas;
 3. Any known on-site landslide activity;
 4. Identification of any stream incision and/or erosion points; and
 5. The extent of any applicable alluvial fan.
- ~~A.B.~~ Proposed developments shall be designed in accordance with the requirements of the Uniform Building Code as written now or hereafter amended when a geologically hazardous area is found on or near the proposed development.
- ~~B.C.~~ Development sites for new structures identified with intermittent or perennial stream-side incision or erosion points shall have all structures located a minimum of 100 feet away from such points.
- ~~C.D.~~ Any disturbance to erosion hazard areas will require revegetation and stabilization with native plant materials.
- E. 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 is prohibited.

Chapter VI – Critical Aquifer Recharge Areas

6.1 Purpose.

The purpose of this chapter is to provide standards for classification and designation of areas with a critical recharging effect on aquifers used for potable water and whose protection is necessary to public health and safety.

6.2 Classification and designation.

A. Critical aquifer recharge areas (CARA) are areas with a critical recharging effect on aquifers used for potable water supply that are vulnerable to contamination that would affect water quality. Critical aquifer recharge areas function to protect human health from contaminated drinking water (anti-degradation of ground water). CARAs are designated on the basis of~~Aquifer recharge areas that have a high susceptibility to aquifer contamination shall be designated as such on the basis of:~~

~~A.1.~~ Land use activities which pose a threat to aquifer quality; or

~~B.2.~~ Land use activities which pose a threat to community water systems; or

~~C.3.~~ Aquifers with characteristics conducive to contamination.

B. Designated areas include wellhead protection areas, sole source aquifers, susceptible ground water management areas, moderately or highly vulnerable areas, moderately or highly susceptible areas. Susceptibility can be estimated using soil permeability, geologic matrix (underlying soils), infiltration rate, and depth to ground water.

C. Those lands which meet the established criteria for aquifer recharge areas are to be designated as such. Aquifer recharge areas identified through the permitting process shall be mapped and shall provide guidance in the land use decision-making process. All sites which maintain aquifer recharge areas, including those aquifer recharge areas which are not mapped, shall be subject to aquifer recharge areas review so stated in this chapter.

6.3 Performance Standards.

A. Mitigation measures shall be utilized to minimize the risk of contamination. These will be tailored to each proposal but will be designed to ensure that development does not present a significant risk of aquifer recharge area contamination. All hazardous materials must be handled to minimize risk of leakage or accidental spills, and emergency response plans must be prepared.

B. The following performance standards shall apply to all regulated uses in areas designated by state or local health agencies (per ordinance, statute or rule) with high susceptibility to aquifer contamination.

A.1. Parcels requiring septic systems shall be subject to the minimum lot size requirement of the Klickitat County Health Department, in order to prevent groundwater contamination;

B.2. All new development activities shall comply with the requirements of the Washington State Department of Health and the Department of Ecology, as they pertain to ground and surface water protection;

- ~~C.3.~~ The applicant shall comply with any state or federally required well-head protection program for public water supplies;
- ~~D.4.~~ Wells shall be set back at least 100 feet from adjacent property lines;
- ~~E.5.~~ Commercial and Industrial uses which process, use, store or produce hazardous, toxic, or otherwise dangerous materials shall meet all applicable federal, state, and local regulations within any aquifer recharge area to prevent groundwater contamination; and
- ~~F.6.~~ Any application which utilizes or generates hazardous or toxic materials shall be required to comply with state and federal regulations pertaining to hazardous or toxic material.

Chapter VII – Frequently Flooded Areas

7.1 Purpose.

~~The purpose of this chapter is to~~ Frequently flooded areas regulations provide standards for classification and designation ~~of frequently flooded areas;~~ and provide guidance for reducing or mitigating hazards to public health and safety.

7.2 Classification and Designation.

~~Frequently flooded areas are defined as a critical area under RCW 36.70A.030. Criteria for identification and classification of frequently flooded areas and for protection standards for frequently flooded areas are included under the Klickitat County Flood Damage Prevention Ordinance. Frequently flooded areas shall be classified as all areas within the floodplain subject to a one percent or greater chance of flooding in a given year. All lands, shorelands, and waters which are under the jurisdiction of Klickitat County and which are identified as within the one hundred year floodplain by the Federal Emergency Management Agency for Klickitat County, Washington (Unincorporated Areas) are designated frequently flooded areas. Frequently flooded areas identified through the permitting process shall be mapped and shall provide guidance in the land use decision-making process. All sites which maintain frequently flooded areas, including those frequently flooded areas which are not mapped, shall be subject to frequently flooded areas review so stated in this chapter.~~

~~7.3~~ **Performance Standards.**

~~Upon receipt of a complete development application, Flood Information Rate Maps (FIRM) shall be reviewed to determine if the proposed development is in a frequently flooded area. All frequently flooded area delineations, designations, surveys, reports, studies, plans, documents, etc. shall be performed by a qualified professional or firm. If the proposed site is in a frequently flooded area, the applicant shall be responsible for securing the services of a professional engineer who shall provide information as follows:~~

- ~~A.~~ Identification of the 100 year floodplain boundary on the site plan;

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- ~~B. Conform to the provisions of the Klickitat County Flood Plain Ordinance, Zoning Code, and Uniform Building Code; and~~
- ~~C. Maintain pre-development movement (volume and velocity) of surface waters and prevent the unnatural diversion of flood waters into otherwise flood-free areas.~~

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