

ORDINANCE 1827

AN ORDINANCE OF THE CITY OF NORTH BEND, WASHINGTON, AMENDING CERTAIN SECTIONS AND SUBSECTIONS OF NORTH BEND MUNICIPAL CODE TITLE 14, ENVIRONMENTAL PROTECTION; SPECIFICALLY AMENDING NBMC 14.05.040(B)(4), 14.05.040(C)(8), 14.05.040(G)(1), 14.05.040(R), 14.05.140, 14.05.240(B)(1), 14.05.240(C)(c), 14.05.250(E), 14.06.010, 14.09.030, 14.09.040, 14.11.020, AND 14.12.010; AMENDING THE CITY’S CRITICAL AREA MAP SERIES IN RESPONSE TO THE 2024 COMPREHENSIVE PLAN UPDATE; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, RCW 36.70A.130 requires that counties and cities take action to review and revise, if necessary, development regulations and critical area ordinances every ten years; and

WHEREAS, the City hired Otak to perform a Best Available Science (“BAS”) review to support the City’s 2025 Critical Areas Code updates (“proposed amendments”); and

WHEREAS, these proposed amendments were submitted to the Washington State Department of Commerce for review on March 7, 2025; and

WHEREAS, a SEPA Determination of Non-Significance was issued for the proposed amendments on March 7, 2025; and

WHEREAS, the City of North Bend Planning Commission (“Planning Commission”) held a public hearing to receive testimony on the proposed amendments at its March 19, 2025, meeting; and

WHEREAS, the Planning Commission, by motion on March 19, 2025, recommended approval of the proposed amendments to the North Bend Municipal Code (“NBMC”) and Critical Area Map Series as detailed in its findings, conclusions and recommendations; and

WHEREAS, the City of North Bend has satisfied all requirements of the update under RCW 36.70A.130; and

WHEREAS, the North Bend City Council finds that the public interest and welfare would be satisfied by amending NBMC Subsections/Sections 14.05.040(B)(4), 14.05.040(C)(8), 14.05.040(G)(1), 14.05.040(R), 14.05.140, 14.05.240(B)(1), 14.05.240(C)(c), 14.05.250(E), 14.06.010, 14.09.030, 14.09.040, 14.11.020, and 14.12.010;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. NBMC Subsection 14.05.040(B)(4) (Definitions – Best Available Science),

Amended: North Bend Municipal Code 14.05.040(B)(4) (Definitions – Best available science) is hereby amended to read as follows:

B. “B” Definitions.

...

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

All other definitions set forth in NBMC 14.05.040(B) shall remain in effect as currently adopted.

Section 2. NBMC Subsection 14.05.040(C)(8) (Definitions – Critical Areas),

Amended: North Bend Municipal Code 14.05.040(C)(8) (Definitions – Critical areas) is hereby amended to read as follows:

C. “C” Definitions.

...

8. “Critical areas” include the following areas and ecosystems: (a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas. Critical areas include lands with natural hazards or lands that support certain unique, fragile or valuable resources. "Fish and wildlife habitat conservation areas" does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company. ~~—means any of the following areas or ecosystems: wetlands; critical aquifer recharge areas; streams and other fish and wildlife habitat areas; frequently flooded areas; and geologically hazardous areas as defined by the Growth Management Act (RCW 36.70A.170).~~

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All other definitions set forth in NBMC 14.05.040(C) shall remain in effect as currently adopted.

Section 3. NBMC Subsection 14.05.040(G)(1) (Definitions – Geologically Hazardous Areas), Amended: North Bend Municipal Code Subsection 14.05.040(G)(1) (Definitions – Geologically hazardous areas) is hereby amended to read as follows:

G. “G” Definitions.

1. “Geologically hazardous areas” means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns. ~~means areas that may not be suited to development consistent with public health, safety, or environmental standards, because of their susceptibility to erosion, sliding, earthquake, or other geological events as designated by WAC 365-190-080(4). Types of geologically hazardous areas include areas with erosion, landslide, seismic, and volcanic hazards.~~

All other definitions set forth in NBMC Subsection 14.05.040(G) shall remain in effect as currently adopted.

Section 4. NBMC Subsection 14.05.040(R) (Definitions – “R” Definitions), Amended: North Bend Municipal Code Subsection 14.05.040(R) (“R” Definitions) is hereby amended to read as follows:

R. “R” Definitions.

1. “Reasonable use” means a legal concept articulated by federal and state courts in regulatory taking cases.

2. “Recreational vehicle” means a vehicle that is: built on a single chassis; 400 square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by an automobile or light duty truck; and designed primarily for use as temporary living quarters for recreational, camping, travel, or seasonal use, and not as a permanent dwelling.

3. “Riparian habitat” means areas adjacent to aquatic systems with flowing water that contains elements of both

aquatic and terrestrial ecosystems that mutually influence each other.

4. “Riparian habitat zone” means the land adjacent to streams and other bodies of water where vegetation is strongly influenced by the presence of water. The riparian habitat zone includes lands within:

- a. Two hundred fifty feet of the ordinary high water mark of Type S streams;
- b. Two hundred feet of the ordinary high water mark of Type F streams greater than five feet wide;
- c. One hundred fifty feet of the ordinary high water mark of Type F streams less than five feet wide or lakes; and
- d. One hundred fifty to 225 feet of the ordinary high water mark of Type N perennial and seasonal streams depending on slope stability.

5. “Riparian management zone” means areas adjacent to streams containing elements of both aquatic and terrestrial ecosystems that mutually influence each other. The width of these areas extends to that portion of the terrestrial landscape that directly influences the aquatic ecosystem by providing shade, fine or large woody material, nutrients, organic and inorganic debris, terrestrial insects, or habitat for riparian-associated wildlife.

Section 5. NBMC Section 14.05.140 (Exceptions), Amended: North Bend Municipal Code Section 14.05.140 (Exceptions) is hereby amended to read as follows:

Except as prohibited in Chapter 14.20 NBMC the following are exceptions from the provisions of this chapter when applicable criteria, performance standards, and approvals are met:

A. Administrative Exceptions.

1. An applicant shall submit a written request for exception from the director that describes the proposed activity and exception that applies.
2. The director shall review the exception requested to verify that the proposed activity complies with Chapters 14.05 through 14.20 NBMC and shall approve or deny the exception. Exceptions that may be requested include:

a. Determination of nonconforming status pursuant to NBMC [14.05.160](#);

b. Operation, maintenance, or repair of existing structures, infrastructure improvements, existing utilities, public or private roads, dikes, levees, or drainage systems, if the activity does not increase impacts to the critical area functions and values as a result of the proposed operation, maintenance or repair;

c. Activities within an improved right-of-way. Activities within an improved right-of-way include the replacement, modification, installation or construction of utility facilities, lines, pipes, mains, streets, sidewalks, curbs, gutters, equipment or appurtenances, not including substations, when such facilities are located within the improved portion of the public right-of-way or a city-authorized private roadway, except those activities that alter a wetland or watercourse, such as new culverts or bridges, or result in the transport of sediment, subject to the following:

i. The activity shall result in the least possible impact and have no practical alternative with less impact on the critical area and/or its buffer;

ii. An additional, contiguous, and undisturbed critical area buffer shall be provided, equal in area to the disturbed critical area buffer; and

iii. Retention and replanting of native vegetation shall occur wherever possible along the right-of-way improvement and resulting disturbance;

d. Minor Utility Projects. Minor utility projects are those utility projects that have minor or short-term impacts to critical areas, as determined by the director in accordance with the criteria below, and that do not significantly impact the functions and values of a critical area(s), such as the placement of a utility pole, anchor, vault, or other small component of a utility facility; provided, that such projects are constructed with best management practices and additional restoration measures are provided. Minor activities shall not interrupt the transport of sediment. Such exceptions shall meet the following criteria:

- i. There is no practical alternative to the proposed activity with less adverse impacts on critical areas and all attempts have been made first to avoid impacts, next to minimize impacts, and lastly to mitigate unavoidable impacts;
 - ii. The activity will not change or diminish the overall critical area hydrology or flood storage capacity;
 - iii. The minor utility project shall be designed and constructed to prevent spills and leaks into critical areas;
 - iv. To the maximum extent practicable, utility corridor access for maintenance is at limited access points into the critical area buffer rather than by a parallel access road; and
 - v. The site shall be revegetated to at least its former condition;
- e. Nonexempt vegetation removal activities, including enhancement and restoration activities. Removal of invasive and noxious weeds that appear on the lists maintained by the Washington State Noxious Weed Control Board and King County noxious weed control board, and additional aggressive nonnative species including Japanese knotweed, scotch broom, English ivy, Himalayan blackberry, and evergreen blackberry, and enhancement and restoration activities for the purpose of restoring functions and values of critical area(s) that do not require construction permits, shall be encouraged by individual property owners. These projects shall use approved, limited-spectrum, water-safe herbicides, hand labor, and light equipment that minimize disturbance to the critical area and buffer. Nonexempt vegetation removal and enhancement and restoration activities in wetlands, streams, and wildlife habitat areas and their buffers shall be coordinated with the director to ensure revegetation of the site with native planting that will preserve or enhance the functions and values of the critical area and/or its buffer; and
- f. Hazardous tree removal; provided, that the hazard is documented by a qualified professional consistent with the requirements of Chapter 19.10 NBMC; and provided, that the responsible party removing the

hazardous tree(s) replaces any trees that are removed with new trees at a ratio of three replacements for each tree removed (3:1). Replacement trees shall be located within critical areas and buffers, and shall be species that are native and indigenous to the site, and shall be a minimum of five-gallon container plant material size. Where feasible the creation of snags shall be considered in critical areas or their buffers rather than complete tree removal.

B. Public Agency or Utility Exception. If the application of this title would prohibit a development proposal by a public agency or public utility that is essential to its ability to provide service, the agency or utility may apply for an exception pursuant to this subsection. After holding a public hearing pursuant to Chapter 20.03 NBMC, the hearing examiner may approve the exception if the hearing examiner finds that:

1. There is no other practical alternative to the proposed development with less impact on the critical areas, based on the demonstration by the applicant of the following factors:
 - a. The applicant has considered all reasonably possible construction techniques based on available technology that are feasible for the proposed project and eliminated any that would result in unreasonable risk of impact to the critical area; and
 - b. The applicant has considered all available sites and alignments within the range of potential sites and alignments that meet the project purpose and for which operating rights are available; and
2. The proposal minimizes and mitigates unavoidable impacts to critical areas and/or critical area buffers.

C. Reasonable Use. If the application of this title would deny all reasonable use of the property, the applicant may apply for an exception pursuant to this section. After holding a public hearing pursuant to Chapter 20.03 NBMC, the hearing examiner may approve the exception if the hearing examiner finds that:

1. The critical area regulations would otherwise deny all reasonable use of the property;
2. There is no other reasonable use consistent with the underlying zoning of the property that has less adverse impact on the critical area and/or associated buffer;

3. The proposed development does not pose an unreasonable threat to the public health, safety, or welfare on or off the property;
4. Any alteration to critical areas is the minimum necessary to allow for reasonable use of the property;
5. 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 the ordinance codified in this chapter or its predecessor;
6. Impacts to critical areas will be mitigated to the greatest extent feasible to ensure no net loss of critical area functions and values, in accordance with an approved mitigation plan; and
7. For residences within a residentially zoned area, reasonable use of the property will be granted on the basis of a finding of consistency with the minimum reasonable use for such a residence as defined by the lesser of (a) 40 percent of the area of the lot, or (b) 2,550 square feet. Included in the total allowed area for a residence is:
 - a. The area of the first floor of the residence;
 - b. The area of any covered or uncovered decks or patios proposed, and any lawn areas proposed;
 - c. The area of roof overhangs greater than two feet;
 - d. The area of any living space or decks on any floor other than the first floor that extend beyond the walls of the first floor unless its area is already included in subsection (C)(7)(b) or (c) of this section; and
 - e. The area of any accessory structure.

The area should be the same as the area covered by structures and lawn as seen in a birds-eye view of the site looking directly down, with the exceptions of not counting the roof overhangs of not more than two feet. Application of this provision does not allow wetlands, streams and other fish and wildlife habitat areas, geologically hazardous areas, or their buffers to be converted to residential landscaping.

D. Farm Plan. A farm plan exception may be used on public open space lands designated for farm use in an adopted master plan, on lands that meet the definition of “agricultural land” in NBMC 18.06.030, or for existing and ongoing agricultural activities. A farm plan shall implement USDA

Natural Resource Conservation Service (NRCS) Field Office Technical Guide Best Management Practices and a qualified professional shall address potential impacts to critical areas from livestock, nutrients, farm chemicals, soil erosion, and sediment control and agricultural drainage infrastructure. The King County conservation district and the city must approve a written farm plan.

E. Mitigation Required. Any authorized alteration to a wetland or stream and other fish and wildlife habitat area or its associated buffer, as approved under subsection B or C of this section, shall be subject to conditions established by the city and shall require mitigation under an approved mitigation plan pursuant to NBMC 14.05.260.

Section 6. NBMC Subsection 14.05.240(B)(1) (Critical Area Reports/Studies), Amended: North Bend Municipal Code Subsection 14.05.240(B)(1) (Critical Area Reports/Studies) is hereby amended to read as follows:

B. Studies Required.

1. When sufficient information to evaluate a proposal is not available, the director shall notify the applicant that a critical area study and report is required. Critical area reports are typically required for any project within 300 feet of a mapped critical area.

Section 7. NBMC Subsection 14.05.240(C)(c) (Critical Area Reports/Studies), Amended: North Bend Municipal Code Subsection 14.05.240(C)(c) (Critical Area Reports/Studies) is hereby amended to read as follows:

c. Written report details, including the following:

- i. A copy of the site plan for the development proposal, including a description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations;
- ii. The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site (including methodology and techniques);
- iii. Identification and characterization of all critical areas and buffers adjacent to the proposed project area;
- iv. A description of the proposal, including, but not limited to, descriptions of filling, dredging, modification for stormwater detention or discharge, clearing, grading, restoring, enhancing, grazing, or other physical activities

that change the existing vegetation, hydrology, soils, or habitat;

v. An assessment of the probable cumulative impacts to critical areas resulting from development of the site;

vi. A description of reasonable efforts to apply a mitigation sequencing approach to avoid, minimize, and mitigate impacts to critical areas;

vii. Plans for any proposed mitigation measures, as needed, to offset any impacts, in accordance with mitigation plan requirements set forth in NBMC 14.05.260, 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;

viii. A discussion of performance standards applicable to the critical area and proposed activity; ~~and~~

ix. Critical area reports shall address the project's climate resiliency within critical areas (e.g., increase habitat connectivity, planning for wider range of stream flows, and increase stream shading); and

~~xix.~~ Financial guarantees to ensure compliance.

Section 8. NBMC Subsection 14.05.250(E) (General Mitigation Requirements),

Amended: North Bend Municipal Code Subsection 14.05.250(E) (General mitigation requirements) is hereby amended to read as follows:

E. Compensatory Mitigation. The goal of compensation is no net loss of critical area and/or buffer functions on a development site. Compensation includes creation, restoration (or reestablishment, rehabilitation), enhancement, and preservation of the critical area or its buffer depending on the scope of the approved alteration and what is needed to maintain or improve the critical area and/or buffer functions. See Wetland Mitigation in Washington State, Part 1: Agency Policies and Guidance (Version 2) (Ecology et al. 2021), as amended, and Part 2: Developing Mitigation Plans (Ecology et al. 2006), as amended. Compensation for approved critical area or buffer alterations shall meet the following minimum performance standards and shall occur pursuant to an approved mitigation plan:

1. The buffer for a created, restored, or enhanced critical area proposed as compensation for approved alterations shall be the same as the buffer required for the existing critical area. For the purposes of restoration, creation, or enhancement, buffers shall be fully vegetated and shall not include lawns, walkways, driveways, and other mowed or paved areas.

2. Mitigation Location Preference. Where on-site mitigation opportunities that result in enhancement of critical areas resources within the city are feasible, on-site approaches should be implemented. The director may facilitate and approve alternate mitigation projects based on considerations of best available science. Consistent with the following priorities for mitigation location preference, alternate mitigation strategies may be approved by the director only where on-site approaches are documented as not feasible.

a. On Site and In Kind. Except where shown to be infeasible and consistent with the standards of this section, all critical area impacts shall be compensated for through restoration or creation of replacement areas that are in kind, on site, and of similar or better critical area category. Mitigation shall be timed prior to or concurrent with the approved alteration and shall have a high probability of success.

b. Off Site and In Kind. The director may consider and approve off-site compensation where the applicant demonstrates that greater biological and hydrological functions and values will be achieved than through on-site mitigation. The preferred location for off-site mitigation is within city limits, although off-site locations within the surrounding upper Snoqualmie River Valley may be approved. The compensation ratios specified under the “on-site” compensation section for each critical area shall apply for off-site compensation as well. The director may request contractual linkage to the off-site parcel to ensure its availability and landowner willingness. Use of a city approved mitigation receiving site could include either of the following approaches; provided, that either off-site mitigation approach meets all state and federal permit requirements:

i. Developers may contribute payment towards an identified city mitigation project with approval from the director; or

ii. Developers may design and implement off-site mitigation at the approved mitigation receiving site with approval from the director.

c. Advance mitigation, in-lieu fee programs, or mitigation banking are examples of alternative mitigation approaches allowed under the provisions of this section if it is demonstrated that all of the following circumstances exist:

i. There are no reasonable opportunities for on-site or off-site mitigation within the city or upper Snoqualmie River Valley;

ii. The off-site mitigation has a greater likelihood of providing equal or improved critical areas functions than the altered critical area, and there is a clear potential for success of the proposed mitigation at the identified mitigation site; and

iii. Credits from an approved (state-certified) wetland mitigation bank are used as compensation, and the use of credits is consistent with the terms of the approved bank instrument; or, fees are paid to an approved in-lieu fee program to compensate for the impacts.

3. Increased Replacement Ratios. The director may increase the replacement ratios under the following circumstances:

a. Uncertainty exists as to the probable success of the proposed restoration or creation due to an unproven methodology or proponent; or

b. A significant period of one year or more will elapse between impact and replication of wetland functions; or

c. The impact was unauthorized.

4. Decreased Replacement Ratios. The director may decrease the replacement ratios required in the “on-site” ratios specified under the compensation section of each critical area when all of the following criteria are met:

a. A minimum replacement ratio of 1.5:1 will be maintained;

b. Documentation by a qualified professional demonstrates that the proposed mitigation actions have a very high rate of success;

c. Documentation by a qualified professional demonstrates that the proposed mitigation actions will provide functions and values that are significantly greater than the critical area being impacted; and

d. The proposed mitigation actions are conducted in advance of any anticipated impact and have been shown to be successful.

5. Critical Areas Enhancement as Mitigation.

a. Impacts to wetland and stream functions may be mitigated by enhancement of existing significantly degraded areas. Applicants proposing to use enhancement must produce a critical area report that identifies how enhancement will increase the functions of the degraded resource and how this increase will adequately mitigate for the loss of critical area and its function at the impact site. An enhancement proposal must also show whether existing critical area functions will be reduced by the enhancement actions.

b. For wetlands, minimum mitigation ratios for enhancement are provided in subsection G of this section. Proposals for enhancement in combination with other forms of mitigation shall implement mitigation ratios consistent with Ecology Publication No. 06-06-011, or as revised, or may determine mitigation requirements using Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington, Department of Ecology, Publication No. 10-06-011, or as revised.

Section 9. NBMC Section 14.06.010 (Designation), Amended: North Bend Municipal Code Section 14.06.010 (Designation) is hereby amended to read as follows:

Identification of wetlands and delineation of their boundaries pursuant to this chapter shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplement pursuant to WAC 173-22-035RCW 36.70A.175. All areas within the city meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this chapter.

Wetlands identified by the city and King County are shown on the map series associated with these amendments on file

with the city. The map may be periodically revised by the city to add or remove areas based on additional information. The map is not a comprehensive map of all wetlands in North Bend and is to be used as a guide for the city, project applicants, and/or property owners. It is a reference and does not provide a final critical area designation.

For the purpose of categorization, 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 Western Washington: 2014 Update (Ecology Publication No. 14-06-029), or as revised and approved by Ecology, which contains the definitions and methods for determining whether the criteria set forth in this section are met.

A. Category I. (1) Relatively undisturbed estuarine wetlands larger than one acre; (2) wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR; (3) bogs; (4) mature and old-growth forested wetlands larger than one acre; (5) wetlands in coastal lagoons; (6) interdunal wetlands that score eight or nine habitat points and are larger than one acre; and (7) wetlands that perform many functions well (scoring 23 points or more). These wetlands: (1) represent unique or rare wetland types; (2) are more sensitive to disturbance than most wetlands; (3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or (4) provide a high level of function.

B. Category II. Category II wetlands are: (1) estuarine wetlands smaller than one acre, or disturbed estuarine wetlands larger than one acre; (2) interdunal wetlands larger than one acre or those found in a mosaic of wetlands; or (3) wetlands with a moderately high level of functions (scoring between 20 and 22 points).

C. Category III. Category III wetlands are: (1) wetlands with a moderate level of functions (scoring between 16 and 19 points); (2) can often be adequately replaced with a well-planned mitigation project; and (3) interdunal wetlands between 0.1 and one acre. Wetlands scoring between 16 and 19 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.

D. Category IV. Category IV wetlands have the lowest levels of functions (scoring fewer than 16 points) and are often heavily disturbed. These are wetlands that potentially

could be replaced, or in some cases improved, although not guaranteed. These wetlands may provide some important functions and should be protected to the extent possible.

Section 10. NBMC Section 14.09.030 (Buffers), Amended: North Bend Municipal Code Section 14.09.030 (Buffers) is hereby amended to read as follows:

The following buffers, also referred to as Riparian Management Zones, are the minimum requirements for streams. Some existing developments are vested and do not meet these buffers. All buffers shall be measured from the ordinary high water mark (OHWM) as surveyed in the field consistent with Ecology's OHWM delineation manual (Anderson et al. 2016), as updated. The manual is titled Determining the Ordinary High Water Mark for Shoreline Management Act Compliance in Washington State, available at: <https://apps.ecology.wa.gov/publications/documents/1606029.pdf>.

A. Aquatic Buffers for Streams.

1. Buffers for Type S streams shall be determined according to Chapter [14.20](#) NBMC.
2. Type F streams shall have a 115-foot buffer on each side of the channel.
3. Type Np streams shall have a 65-foot buffer on each side of the channel.
4. Type Ns streams in open space or undeveloped areas shall have a 65-foot buffer on each side of the channel, unless otherwise noted in subsection (A)(5) of this section.
5. Type Ns streams in existing built out developed areas as depicted within the map series on file with the city shall have a 25-foot buffer on each side of the channel. These areas are primarily existing single-family residential lots in the Silver Creek neighborhood east of Ballarat. No reduction in this 25-foot buffer is allowed.

B. Terrestrial Buffers. Buffer widths and setbacks for the protection of listed species outside of streams and stream buffers shall be determined on a site-specific basis. Appropriate buffers shall be documented in an approved habitat management plan.

C. Averaging Buffers and Reducing Buffers. The director will consider the allowance of stream buffer averaging and reduction only when any reductions in buffer area width would not adversely impact the critical area and/or buffer functions and values. At a minimum, any proposed buffer averaging or buffer reduction shall meet the following criteria:

1. Buffer averaging shall be preferred over buffer reduction; proposals for buffer reduction shall only be approved on a case-by-case basis, and only where the existing buffer condition is degraded (due to existing development within the prescribed buffer width, the presence of significant amount of invasive vegetation that impairs buffer function, and/or lack of native vegetation); provided, that the following criteria are met:

- a. Any buffer reduction proposal must demonstrate to the satisfaction of the director that it will not result in direct, indirect or long-term adverse impacts to watercourses; and

- b. The remaining buffer is enhanced in accordance with an approved buffer enhancement plan, prepared by a qualified professional, to retain existing native vegetation and install additional native vegetation in order to improve the buffer function;

2. Wherever buffer averaging is proposed, the buffer area after averaging shall be no less than that which would be contained within the standard buffer, and shall demonstrate how variations in the existing function of the buffer are integrated into the averaging proposal to maximize retention of forest canopy and native vegetation;

3. The approved Type F and Type Np buffer widths shall not be reduced by more than 25 percent at any one point as a result of the buffer averaging or reduction, and Type Ns buffer widths shall not be reduced by more than 50 percent at any one point as a result of the buffer averaging or reduction;

4. For buffer averaging proposals, the additional buffer area shall be enhanced if necessary, to achieve no net loss of the critical areas functions and values;

5. For buffer averaging proposals, the additional buffer is contiguous with the standard buffer; and

6. For any buffer averaging or reduction proposal, encroachment into the buffer does not occur waterward of the top of an associated steep slope or into a channel migration zone.

D. Increased Buffers. The director may require increased buffer sizes when a critical area report shows that it is necessary to protect the function and value of the critical area when either the critical area is particularly critical to disturbance or the development poses unusual impacts. Examples of circumstances that may require buffers beyond minimum requirements include, but are not limited to:

1. Unclassified uses;
2. The critical area is a fish and wildlife habitat area for spawning or rearing as determined by the Washington State Department of Fish and Wildlife;
3. Land located within the development proposal that is adjacent to the critical area and its associated buffer is classified as an erosion hazard area; or
4. A trail or utility corridor in excess of 10 percent of the buffer width is proposed for inclusion in the buffer.

Section 11. NBMC Section 14.09.040 (Permitted alterations), Amended: North Bend Municipal Code Section 14.09.040 (Permitted alterations) is hereby amended to read as follows:

A. Applicability – No Degradation. The requirements provided in this section supplement those identified in Chapter 14.05 NBMC. The following activities or uses may be permitted in streams and/or their buffers when the mitigation sequencing requirements of NBMC 14.05.250 are followed, and the applicant can show that the proposed activity will not degrade the functions and values of the stream, stream buffer, or other critical area:

1. Stream Crossings. Stream crossings shall be minimized, but when necessary they shall conform to the following standards as well as other applicable laws (see 2013 Washington State Department of Fish and Wildlife (WDFW) Water Crossing Design Guidelines along with

consideration of NMFS's 2011 Anadromous Salmonid Passage Facility Design):

- a. The stream crossing is the only reasonable alternative that has the least impact;
- b. It has been shown in the critical area report that the proposed crossing will not decrease the stream and associated buffer functions and values;
- c. The stream crossing shall use bridges instead of pipe or box culverts unless it can be demonstrated that a pipe or box culvert would result in equal or less ecological impacts;
- d. All stream crossings using pipe culverts shall use super span or oversized culverts with appropriate fish enhancement measures. Culverts shall not obstruct fish passage;
- e. All stream crossings shall follow WDFW's 2013 Water Crossing Design Guidelines, or as updated, along with consideration of NMFS's 2011 Anadromous Salmonid Passage Facility Design, or as updated. Stream crossing design shall follow the best available science and coordinated with WDFW.~~Stream crossings shall be designed according to the Washington Department of Fish and Wildlife Fish Passage Design at Road Culverts, 1999, and the National Marine Fisheries Service Guidelines for Salmonid Passage at Stream Crossings, 2000;~~
- f. All stream crossings shall be constructed during the summer low flow period between June 15th and September 15th or as specified by the State Department of Fish and Wildlife in the hydraulic project approval;
- g. Stream crossings shall not occur through fish spawning areas unless no other feasible crossing site exists;
- h. 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;
- i. The natural drainage pattern and discharges of the upstream drainage basin, up to the runoff event having an exceedance probability of 0.01, shall not be altered or diminished by a stream crossing;

- j. Stream crossings shall minimize interruption of downstream movement of wood and gravel;
 - k. Stream crossings shall be designed to facilitate routine maintenance of culverts and bridges; and
 - l. Stream crossings shall be minimized by serving multiple properties whenever possible.
2. Trails. The criteria for alignment, construction, and maintenance of trails within wetlands and their buffers shall apply to trails within stream buffers. Fishing platforms or docks shall be included in the list of permitted trail improvements for streams, subject to shoreline regulations.
3. Utilities. The criteria for alignment, construction, and maintenance within wetland buffers shall apply to utility corridors within stream buffers. In addition, corridors shall not be aligned parallel with any stream channel unless the corridor is outside the buffer, and crossings shall be minimized. Installation shall be accomplished by boring beneath the scour depth and hyporheic zone of the water body where feasible. Crossings shall be contained within the existing footprint of an existing or new road or utility crossing where possible. Otherwise, crossings shall be at an angle greater than 60 degrees to the centerline of the channel. The criteria for stream crossing shall also apply.
4. Stormwater conveyance facilities; provided, that they are only located in the buffer when no practicable alternative exists outside the buffer. Stormwater facilities shall be planted with native plantings where feasible to provide habitat, and/or less intrusive facilities should be used.
5. Septic Systems. New septic systems are prohibited in the inner stream buffers.
6. Stream bank stabilization shall only be allowed when it is shown, through a stream bank stability assessment conducted by a qualified fluvial geomorphologist or hydraulic engineer, that such stabilization is required for public safety reasons, that no other less intrusive actions are possible, and that the stabilization will not degrade instream or downstream channel stability. Stream bank stabilization shall utilize bioengineering or soft armoring techniques unless otherwise demonstrated. Stream bank stabilization shall conform to the Integrated Streambank

Protection Guidelines developed by the Washington State Department of Fish and Wildlife, 2002, or as revised. Stabilization measures must demonstrate the following:

- a. Natural shoreline processes will be maintained. The project will not result in increased erosion or alterations to, or loss of, shoreline substrate within one-quarter mile of the project area;
 - b. The stabilization measures will not degrade streams and other fish or wildlife habitat areas or associated wetlands; and
 - c. Adequate mitigation measures ensure that there is no net loss of the functions or values of riparian habitat.
7. Maintenance, repair, or replacement of lawfully established existing bank stabilization is allowed, provided it does not increase the height or linear amount of bank and does not expand waterward or into aquatic habitat landward.
8. Activities and uses as allowed under Chapter 14.05 NBMC.

Section 12. NBMC Section 14.11.020 (Designation), Amended: North Bend Municipal Code Section 14.11.020 (Designation) is hereby amended to read as follows:

Geologically hazardous areas means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns. ~~include areas susceptible to erosion, sliding, earthquake, or other geological events. They pose a threat to the health and safety of citizens when incompatible development is sited in areas of significant hazard.~~ Such incompatible development may not only place itself at risk, but may also increase the hazard to surrounding development and uses. Areas susceptible to one or more of the following types of hazards shall be designated as geologically hazardous areas:

- A. Erosion hazard;
- B. Landslide hazard (including steep slopes);
- C. Seismic hazard; and

D. Other geological events including mass wasting, debris flows, rock falls, and differential settlement.

Figure 6, Seismic Hazards¹ depicts areas subject to soil liquefaction in an earthquake and Figure 7, Erosion and Debris Flow² identifies geologically hazardous areas in the North Bend area. These maps may be periodically revised by the city to add or remove areas based on additional information. The WGS Geologic Information Portal [Geologic Information Portal | WA - DNR](#) is an interactive database for additional information.

Section 13. NBMC Section 14.12.010 (Applicability), Amended: North Bend Municipal Code Section 14.12.010 (Applicability) is hereby amended to read as follows:

This chapter shall apply to all areas of special flood hazards (also referred to as “special flood hazard areas” or “SFHA”) within the city. Special flood hazard areas shall be as defined in NBMC ~~14.12.010(S) 14.05.200(S)(4)~~ as now in effect or as may be subsequently amended, which areas shall be determined by consideration of the following:

A. Basis for Establishing Areas of Special Flood Hazard. Special flood hazard areas identified by the Federal Insurance Administration in a scientific and engineering report entitled “The Flood Insurance Study for King County, Washington, and Incorporated Areas” dated August 19, 2020, and any revisions thereto, with an accompanying flood insurance rate map (FIRM), and any revisions thereto, which are hereby adopted by reference as though fully set forth. The flood insurance study (FIS) and the FIRM are on file at North Bend City Hall at 920 Cedar Falls Way, North Bend, WA. The best available information for flood hazard area identification as outlined in subsection B of this section shall be the basis for regulation until a new FIRM is issued that incorporates data utilized under subsection B of this section; and

B. When base flood elevation data has not been provided (in A zone) in accordance with subsection A of this section, Basis for Establishing Areas of Special Flood Hazard, the floodplain administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or

¹ See city website for current version.

² See city website for current version.

other source, in order to administer the specific standards found in NBMC 14.12.100 through 14.12.140 and NBMC 14.12.200, Floodways.

C. In the event of a conflict, the more restrictive provision shall apply.

D. Compliance. All development within special flood hazard areas is subject to the terms of this chapter and other applicable regulations.

E. Penalties for Noncompliance. No structure shall hereafter be constructed, located, extended, converted, or altered, and no land shall be altered, without first complying with the terms of this chapter and other applicable regulations. Violations of the provisions of this chapter by failure to comply with any of its requirements, including violations of conditions attached to permits or other approvals, shall constitute a civil violation subject to the provisions of Chapters 1.20 and 8.08 NBMC and other applicable law.

Section 14. Critical Area Map Series: The Critical Area Map Series adopted in North Bend Municipal Code Subsection 14.05.010(E) is hereby amended as shown in Exhibit A.

Section 15. Severability: Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 16. Effective Date: This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 6TH DAY OF MAY, 2025.

CITY OF NORTH BEND:

APPROVED AS TO FORM:

Mary Miller, Mayor

Kendra Rosenberg, City Attorney

ATTEST/AUTHENTICATED:

Published: May 16, 2025

Effective: May 21, 2025

Susie Oppedal, City Clerk