

City of Monroe  
806 West Main Street, Monroe, WA 98272  
Phone (360) 794-7400 Fax (360) 794-4007  
[www.monroewa.gov](http://www.monroewa.gov)

## Planning Commission Agenda

Monday, August 22, 2016 7:00 p.m. Council Chambers

### CALL TO ORDER

### ROLL CALL

Chairman Kristiansen  
Commissioner Bull  
Commissioner Duerksen  
Commissioner Fisher  
Commissioner Jensen  
Commissioner Stanger  
Commissioner Tuttle

### COMMENTS FROM CITIZENS

Members of the audience may comment on any city matter that is not listed on the agenda. Comments by individuals are limited to five (5) minutes. The Commission usually does not respond to matters brought up during audience participation and may; if appropriate, address the matter at a subsequent meeting.

### APPROVAL OF MINUTES

July 25, 2016

Documents:

[Minutes \(Draft\) PC07252016.pdf](#)

### PUBLIC HEARING

NONE

### OLD BUSINESS

A. Code Amendment - Downtown

Documents:

[A Old Business Agenda Bill - Zoning Code.pdf](#)  
[ATTACH 1 Old BUsiness DT.pdf](#)

### NEW BUSINESS

A. Critical Area Code Amendment

Documents:

[A New Business Agenda Bill - CAO.pdf](#)  
[ATTACH 1 New Business Draft Critical Areas Ord.pdf](#)

### DISCUSSION BY COMMISSIONERS AND STAFF

### ADJOURNMENT

**THE PLANNING COMMISSION MAY ADD AND/OR TAKE ACTION ON OTHER ITEMS NOT LISTED ON THIS AGENDA**

Accommodations for people with disabilities will be provided upon request.  
Please contact City Hall at 360-794-7400 and allow one-week advanced notice.

**CITY OF MONROE  
PLANNING COMMISSION MINUTES  
Monday, July 25, 2016**

The regular meeting of the Monroe Planning Commission was held on **Monday, July 25, 2016** at **7:00 p.m.**, in the City Hall Council Chambers at 806 West Main Street, Monroe, WA 98272.

**CALL TO ORDER**

**Chair Kristiansen** called the meeting to order at **7:00 p.m.**

**ROLL CALL**

**Secretary Christina LaVelle** called the roll. The following were:

**Commissioners Present:** Chair Kristiansen, Commissioner Tuttle, Commissioner Stanger and Commissioner Bull

**Commissioners Absent (Excused):** Commissioner Jensen, Commissioner Fisher, and Commissioner Duerksen

**Staff Present:** Director of Community Development David Osaki and Planning Commission Secretary Christina LaVelle

**COMMENTS FROM CITIZENS**

None

**APPROVAL OF MINUTES**

- July 11, 2016 Meeting

**Commissioner Bull** moved to accept the July 11, 2016 Planning Commission Meeting minutes as written. **Commissioner Stanger seconded.** Motion carried **4/0.**

**OLD BUSINESS**

**1. Zoning Code – Amendments**

1. **Director Osaki** presented the Planning Commission with Attachment 1 which consists of existing City of Monroe zoning code definitions that had been discussed during the review of the Downtown Commercial (DC) land use matrix. Attachment 1 also included related examples of definitions from other sources.

**The Commission** discussion is summarized below:

**The Commission** discussed the proposed a Historic Main overlay (Promenade) that would limit certain uses in a specified region along Main Street and Lewis Street to encourage a walkable retail zone in the heart of the downtown district. To achieve this goal, **the Commission** was in agreement that drive up retail (including banks), grocery stores, large scale distilleries, and retirement homes would be limited within the designated zone. Also, **the Commission** noted that

mobile vendors, print shops, grocery stores, service establishments, and drug stores should be prohibited in the Downtown Promenade. Further, **the Commission** was in consensus that professional offices should be prohibited on the ground floor of all buildings within the specified overlay zone.

### **DISCUSSION BY COMMISSION AND STAFF**

- **Director Osaki** informed Commission that the Hearing Examiner approved Iron Eagle Preliminary Plat and Rezone.
- **Commissioner Tuttle** expressed her concern in regards to the development activity from the new Quadrant/ Bear Mountain developments. Her concern surrounded construction site issues such as fallen trees and drainage issues. In addition, she expressed concerns over the aesthetics of the cement retention pond and how this will look long-term in relation to the new neighborhoods. **Commissioner Tuttle** asked Director Osaki who is responsible to make sure that the construction work in new development reflects the approved plans. **Director Osaki** stated that that the city inspector inspects the site throughout the development process to ensure that the development reflects the construction plans approved by the City. There was discussion about scheduling a future training session for the Planning Commission regarding the development review process.
- **Director Osaki** notified the Commission that the City had received notification for the Washington State Liquor and Cannabis Board regarding an applicant seeking to receive a State license to open a marijuana retail establishment within the Monroe city limits. The Washington State Liquor and Cannabis Board was seeking City comments prior to making a determination as to whether or not to issue a State license. After some research, the State license was denied by the Washington State Liquor and Cannabis Board since it did not comply with State requirements for distance separation from certain land uses.
- **The Commission** inquired about the retaining wall project on the right side of Woods Creek Road. **Director Osaki** stated that he would look into the project and report his findings back to the Commission.

### **ADJOURNMENT**

**Commissioner Stanger** moved to adjourn the **July 11, 2016** Planning Commission meeting. Motion was seconded by **Commissioner Bull**. Motion carried **4/0** and the meeting was adjourned at **8:30 p.m.**

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Bill Kristiansen

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Christina L. LaVelle

Chair

Planning Commission Secretary

**MONROE PLANNING COMMISSION**  
**Agenda Item Cover Sheet**

<b>TITLE:</b>	<b>Zoning Code - Amendments</b>
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<b>DATE:</b>		<b>CONTACT:</b>	<b>PRESENTER:</b>	<b>ITEM:</b>
08/22/16		David Osaki	Dave Osaki	Old Business

**Discussion:** 01/11/16; 01/25/2016, 02/22/2016, 03/28.2016, 4/11/2016, 4/25/2016, 05/09/2016, 05/23/2016, 06/13/2016; 07/11/2016, 07/25/2016, 08/22/2016

**Public Hearing:** None

**Attachments:** 1. MMC Chapter 18.12 Downtown Commercial Zone w/ amendments/notes

**DESCRIPTION/BACKGROUND**

During the course of the past several months the Planning Commission has been working on amendments to the Downtown Commercial Zone (MMC Chapter 18.12).

Additional revisions have been incorporated into the working draft of amendments that the Planning Commission has been working on (see Attachment 1).

Included in these are additional revisions addressing the ground floor commercial requirement in the Historic Main neighborhood of the Downtown Commercial (DC) zone (outside of the Promenade overlay.)

Another issue for discussion are height limits in the Downtown Commercial zone. The Comprehensive Plan, Chapter 2, includes the following policy (P. 224),

“P.224 Allow increased building heights and density within the Downtown and Al Borlin neighborhoods.”

Additional discussion about this policy will occur at the Planning Commission’s. August 22, 2016 meeting.

<p><b>RECOMMENDED ACTION</b> Discussion.</p>
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## Chapter 18.12 DOWNTOWN COMMERCIAL (DC) ZONE

### Sections:

- [18.12.110](#) Purpose of the downtown commercial zone.
- [18.12.115](#) ~~Definitions~~
- [18.12.120](#) Neighborhoods and maps.
- [18.12.130](#) ~~Downtown Residential~~ neighborhood (DN).
- [18.12.140](#) Rails and Roads neighborhood (RR).
- [18.12.150](#) Historic Main area (HM).
- [18.12.160](#) ~~Berlin Park East Downtown~~ neighborhood (BP).
- [18.12.170](#) Downtown neighborhood land use matrix.
- [18.12.180](#) Mixed-use requirements.
- [18.12.190](#) Special uses.
- [18.12.200](#) Downtown planning area bulk requirements.
- [18.12.210](#) General downtown commercial requirements for the Historic Main and ~~East Downtown Berlin Park~~ neighborhoods.
- [18.12.220](#) Downtown commercial parking.

### **18.12.110 Purpose of the downtown commercial zone.**

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The purpose of the downtown commercial zone is to integrate civic, commercial, entertainment, cultural and residential uses and increase economic and urban activity levels within the zone. Development standards or guidelines applicable to the downtown commercial zone enhance opportunities for significant growth of office, commercial, and residential projects in the city's core, where public transit and civic amenities are more concentrated and available. (Ord. 006/2009 § 3)

**18.12.115 Definitions**

For the purposes of MMC Chapter 18.12 only, the following definitions shall apply:

“Club, fitness” means a use featuring exercise, sports and other active physical fitness conditioning typically requiring a membership. This also includes businesses engaged in providing specific athletic related training and services for a participation fee.

“Distillery, Micro” means an operation where specialty alcohol is produced and distributed to a lesser extent than a distillery according to industry standards. The majority of the square footage of the micro-distillery building and related structures is devoted to such uses as a tasting room, restaurant and/or gift shops.

“Family day care,” means a business regularly providing care during part of the 24-hour day to 12 or fewer persons, including children and/or adults, and the children, if applicable, of the day care provider, in the family abode of the person or persons under whose direct care those receiving care are placed.

“Mixed use (commercial and residential)” means a building that contains a combination of residential and non-residential land uses, as permitted in the underlying Downtown Neighborhood.

“Personal service shops “means” businesses which administer personal services including beauty and barber shops, nail salons, tanning salons, day spas, pet grooming, tailoring, shoe repair, and other similar personal service uses that are pedestrian-attracting or pedestrian-generating in nature.

“Service establishment” means any business, professional or government office providing a substantial function of the business as on-site services, which involve personal contact with people who do not work in the office. Examples would include, but not be limited to, residential real estate sales, loan offices, medical offices and employment agencies.

**18.12.120 Neighborhoods and maps.**

A. Neighborhoods. The downtown commercial zone is subdivided into four distinct neighborhoods; each neighborhood is intended to implement specific aspects of the comprehensive plan that pertain to the downtown planning area. Each neighborhood contains a unique mix of uses and zoning regulations,

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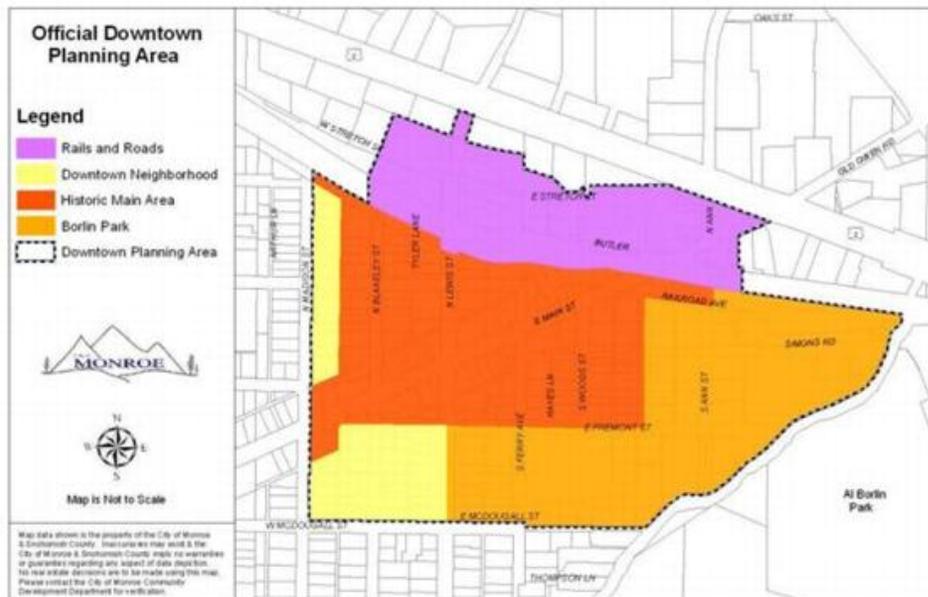
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as described in this chapter. The four neighborhoods are ~~DRN ResidentialDowntown~~ neighborhood, RR Rails and Roads neighborhood, HM Historic Main area, and ~~BP Berlin Park~~ ED East Downtown neighborhood

B. Official Downtown Planning Area Zoning Map. The official downtown planning area zoning map shows the boundaries of the planning area and represents the four distinct neighborhoods in the downtown commercial zone. This map shall be supplemental to the current, official city of Monroe zoning map.

(NOTE MAP LEGEND TO BE EDITED TO REFLECT NEIGHBORHOOD NAMES)



C. Planning Area and Neighborhood Boundaries. Where uncertainty exists as to the boundaries of the downtown planning area and downtown commercial neighborhoods, as shown on the official downtown planning area zoning map, the rules defined in MMC [18.04.030](#) shall apply. (Ord. 006/2009 § 3)

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**18.12.130 ~~Downtown Residential~~ neighborhood (RDN).**

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A. Purpose. The ~~Downtown Residential~~ neighborhood frames the western edge of the Historic Main area and contains existing single-family houses, multifamily buildings, and some commercial uses. This mix of uses is appropriate for this neighborhood, as a transitional edge between single-family neighborhoods and the Historic Main area, to provide a setting for small businesses and close-in housing options. Future redevelopment in this area will provide a mix of uses. Residential uses in this neighborhood are limited to single-family residences, ~~and~~ duplexes ~~and multi-family dwellings~~.

B. Residential Density. Residential density will allow up to eleven dwelling units per acre. The number of units on a specific site is calculated by multiplying the gross area by eleven units per acre. (Ord. 006/2009 § 3)

**18.12.140 Rails and Roads neighborhood (RR).**

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The Rails and Roads neighborhood includes the lands north of the Historic Main area, between the railroad and U.S. Highway 2. Many of the properties in this area have roads along the front and rear of the property, looking both to downtown and to the commercial strip. Various commercial activities are appropriate in this neighborhood. The long-term vision for the area should make use of the rail lines by encouraging a rail stop for potential passenger service. Residential uses in the RR neighborhood are not allowed, due to the commercial nature of the area. (Ord. 006/2009 § 3)

**18.12.150 Historic Main area (HM).**

A. Purpose. The Historic Main area encompasses the blocks along Main Street between Madison Street and the railroad tracks and along Lewis Street between Fremont Street and the railroad tracks. The Historic Main area will be the core area for specialty commercial uses that serve the entire community and even the region. The goal for this area is to continue to have a high concentration of retail, dining, and entertainment functions, while accommodating professional services and some residential housing. Cultural and recreational facilities should also be a part of the area’s mix of uses.

B. Residential Density. The Historic Main area allows up to twenty residential units per gross acre. To calculate the number of possible dwelling units/lots, refer to MMC [18.10.010\(B\)](#) for the single-family density calculation and MMC [18.10.020\(B\)](#) for the multifamily or mixed use density calculation.

C. Design Guidelines. All development within the Historic Main area shall comply with the design guidelines found in the downtown master plan. Design guideline review will be administrative and is subject to the requirements of MMC [18.10.130](#).

D. The ground level and street level portion of all buildings facing Main Street between Madison Street and Woods Street (if extended north) and the ground level and street level portion of all buildings facing Lewis Street between Fremont Street and Hill Street shall be considered a “promenade” within the Downtown Commercial District. The ground level and street level portion of all buildings on these street segments shall be occupied by the uses identified in Table 18.12.170 (Downtown Neighborhood Land Use Matrix) under the column heading “Historic Main Neighborhood Promenade”. The Director may authorize other pedestrian attracting uses to be permitted if the Director finds that such use is the same general character as the permitted uses identified in that column.

**18.12.160 Berlin Park East Downtown neighborhood (EDBP) (formerly Borlin Park neighborhood).**

A. Purpose. The goal for this neighborhood is to promote an “urban village” character that contains pedestrian scale amenities and high-quality mixed-use and high-density residential development. Land uses will provide for a concentration of commercial, residential, and civic functions. Civic functions may include recreational and arts uses as well as education-related activities. The Berlin Park East Downtown neighborhood should contain significant, well-designed parks and open space. There are opportunities to make use of natural amenities along the eastern edge of the area that would make this a distinctive and appealing location for in-town housing. There are also opportunities to provide additional urban, civic green spaces within convenient

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walking distance of the Historic Main area. This combination of uses is necessary to promote the greater downtown Monroe area as a regional destination for specialty retail, dining, and entertainment.

Areas along Woods Creek and the ~~Borlin Park~~East Downtown neighborhood are encouraged to provide enhanced pedestrian and bicycle connectivity. Also proposed along Woods Creek is an area for an overlook and water access at the creek itself, which would be linked into the enhanced bike and pedestrian ways. Areas of the Al Borlin Park neighborhood, which are within the Woods Creek shoreline area, will have some development constraints due to the natural sensitivities of the creek side areas.

B. Residential Density. The ~~Borlin Park~~East Downtown neighborhood allows up to twenty residential units per gross acre. To calculate the number of possible dwelling units/lots, refer to MMC [18.10.020](#)(B) for the multifamily or mixed use density calculation.

C. Design Guidelines. The ~~Borlin Park~~East Downtown Neighborhood Design Guidelines (also known as Borlin Park Neighborhood Design Guidelines), dated February 2009, or as amended in the future, and attached to the ordinance codified in this section, are hereby adopted and incorporated into this code by this section by this reference as if set forth in full. All development within the ~~Borlin Park~~East Downtown neighborhood shall comply with the design guidelines as adopted and is subject to the requirements of MMC [18.10.130](#). (Ord. 026/2011 § 2 (Exh. 1); Ord. 006/2009 § 3)

#### **18.12.170 Downtown neighborhood land use matrix.**

This matrix shall be considered supplemental to the zoning land use matrix, MCC 18.10.050. Uses identified in the matrix below, but not in MCC 18.10.050, shall be considered prohibited in the zoning districts identified in MCC 18.10.050.

Downtown Neighborhood Zoning Matrix	Downtown Commercial Zone				
Conforming Use	<u>Downtown Residential Neighborhood</u>	Rails and Roads Neighborhood	<u>Historic Main Area</u>	<u>Historic Main Neighborhood Promenade (See MMC 18.12.150(D))</u>	<u>East Downtown Berlin Park Neighborhood</u>
Accessory dwelling units	P <sup>1</sup>		P <sup>1</sup>		P <sup>1</sup>
Adult entertainment (business use) P2			▲		
Amusement facility		P	▲C		CP
Antique shop		P	▲P	P	P
Art gallery		P	▲P	P	P
Auto repair, minor		P	▲		
Auto repair, major		P	▲		
Bakery		P	▲P	P	P
<u>Bank without drive-up facility</u>		P	▲P		P
Bank with drive-up facility		P	▲PC		P
Bed and breakfast	C <sup>1</sup>		▲C <sup>1</sup>		CP <sup>1</sup>

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Brewery, micro		P	<u>P</u>		<u>GP</u>
Church	C	P	<u>PC</u>		P
Cleaning establishment		P	<u>P</u>		<u>GP</u>
Clinic, health services	C	C	<u>C</u>		C
Club		P	<u>PC</u>		<u>GP</u>
Club, fitness	<u>P</u>	P	<u>PC</u>		<u>AP</u>
Coffee shop	A	P	<u>P</u>	<u>P</u>	P
Community open-air market		P	<u>P</u>	<u>P</u>	P
Convenience stores		P	<u>P</u>	<u>P</u>	<u>P</u>
Day care center	<u>AC</u> <sup>2</sup>	<u>PC</u> <sup>2</sup>	<u>AC</u> <sup>2</sup>		<u>PC</u> <sup>2</sup>
<u>Distillery, Micro</u>		<u>P</u>	<u>P</u>		<u>P</u>
Drive-up/through		P	<u>P</u> <sup>3</sup>		P <sup>3</sup>
Drug store		P	<u>P</u>	<u>P</u>	P
Dwelling, duplex	P		<u>P</u>		
Dwelling, mobile home	<u>P</u>	<u>P</u>	<u>C</u>	<u>P</u>	
Dwelling, multifamily	<u>P</u>		<u>CP</u> <sup>4</sup>		P
Dwelling, single-family	P		<u>G</u>		
Dwelling, townhouse	<u>P</u>		<u>C</u>		P

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Electrical transmission lines of higher voltage than 115 kV, in existing corridors <u>(above or below ground)</u>	P	P	<u>P</u>	<u>P</u>	P
<u>Electrical transmission lines of higher voltage than 115 kV, in new corridors (underground)</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Electrical transmission lines of higher voltage than 115 kV, in new corridors <u>(above ground)</u>	C	C	<u>C</u>	<u>C</u>	C
Family day care	A	A	<u>A</u>		A
Garden produce <u>(to be defined or deleted if not defined)</u>		P	<u>P</u>		P
<u>Gas station</u>		<u>P</u>	<u>C</u>		
Government facilities	C	C	<u>C</u>		C
Greenhouse, retail		P	<u>PC</u>	<u>P</u>	<u>P</u>
Grocery store		P	<u>P(5)</u> <sup>5</sup>	<u>P(5)</u>	<u>P(5)</u> <sup>6</sup>
Group homes, Type 1	P		<u>C</u>		P
Group homes, Type 2	C <sup>3</sup>		<u>C</u> <sup>3</sup>		C <sup>3</sup>
Halfway house	EPF		<u>EPF</u>		EPF
Hardware store <u>4 (to be footnoted to less be 20,000 square feet or less)</u>		<u>P*</u>	<u>P*</u>	<u>P</u>	<u>P</u>
<u>Hardware store 2</u>		P	<u>P</u>		
Home occupations <u>minor only</u>	P		<u>P</u>		P

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Hotel		P	<u>CP</u>		<u>CP</u>
Library		P	<u>P</u>		P
Mixed-use (commercial and residential)	P		<u>P</u>		P
Mobile vendors		P <sup>6</sup>	<u>P<sup>6</sup></u>		P <sup>6</sup>
<del>Motel</del>		<del>P</del>	<del><u>P</u></del>		
Nursing and/or convalescent home			<u>P<sup>8</sup></u>		P <u>(footnote)<sup>6</sup></u>
Office, professional	P	P	<u>P</u>		P
<del>Parking lots (accessory use)</del>	<del>P<sub>i</sub></del>	<del>P<sub>i</sub></del>	<del><u>P<sub>i</sub></u></del>		<del>P<sub>i</sub></del>
Parking lots (stand-alone)	<u>C</u>	C	<u>C</u>		C
<del>Pawn shop</del>		<del>P<sub>i</sub></del>	<del><u>P<sub>i</sub></u></del>		
<u>Personal Service Shops</u>		<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Preschool	<u>C<sub>i</sub></u>	<u>CP</u>	<u>C</u>		<u>CP</u>
Print shop		P	<u>PC</u>		<u>CP</u>
Regional transit station, including bus, train, and other high-capacity vehicle bases	EPF	EPF	<u>EPF</u>		EPF
Restaurant		P	<u>P</u>	<u>P</u>	P
Retail stores		P	<u>P<sup>7</sup></u>	<u>P</u>	P <sup>7</sup>
Retirement housing/assisted living facility	<u>P (add)</u>	<u>P (add footnote)</u>	<u>P<sup>8</sup></u>		<u>P (add)</u>

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Service establishment	C	P	<u>P</u>		P
State and regional transportation facilities including highways of statewide significance	EPF	EPF	<u>EPF</u>		EPF
Tavern/pub		P	<u>P</u>		<u>AP</u>
Tool sales and rental		P	<u>P</u>		<u>A</u>
Utility services	<u>PC</u>	<u>PC</u>	<u>PC</u>		<u>PC</u>
Veterinary clinic/animal hospital	C	P	<u>C</u>		<u>P</u>

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P = Permitted use; A = Accessory use; C = Requires a conditional use permit; and EPF = Essential public facility (see Chapter [18.15](#) MMC)

P<sup>1</sup> Accessory dwelling units must meet criteria outlined in Chapter [18.40](#) MMC.

P<sup>2</sup> Adult entertainment facilities are subject to Chapter [5.48](#) MMC and are not allowed in the downtown commercial zone.

P<sup>3</sup> Drive-up/through windows or areas are prohibited in any establishment serving food and/or beverages.

P<sup>4</sup> Multifamily dwellings are only allowed in conjunction with mixed-use structures.

P<sup>5</sup> Grocery stores may not exceed ~~20,000~~ 13,000 square feet in gross floor area.

P<sup>6</sup> Mobile vendors must meet the criteria outlined in MMC [18.12.190](#)(A).

~~P<sup>7</sup>—In the Historic Main and Berlin Park neighborhoods, retail stores are limited to low intensity uses no more than two thousand five hundred gross square feet, which are typically part of a larger development. Low intensity uses may include, but are not limited to, boutiques, galleries, jewelry stores, clothing shops, and similar retail uses.~~

~~P<sup>8</sup>—Based upon bedrooms as opposed to dwelling units in any combination of one-, two-, and/or three-bedroom units, not to exceed the maximum density allowed in the underlying zoning district. The standard formula would be to use the maximum allowed density per acre (43,560 square feet divided by minimum zone lot size) multiplied by three (standard bedroom equivalent unit) to achieve bedroom density. For example, in the MR 6,000 zone a one-acre site could achieve thirty-three bedrooms per acre ( $43,560 / 4,000 = 10.89$  or 11 dwelling units per acre  $\times 3 = 33$ ).~~

C<sup>1</sup> Caretaker must be on site.

C<sup>2</sup> Limitation on number of children permitted per establishment.

C<sup>3</sup> Group homes that qualify as essential public facilities shall follow the regulations in Chapter [18.15](#) MMC, Essential Public Facilities.

~~\* (Footnote number to be added). Limited to parcels 4 acres in size or less.~~

### **18.12.180 Mixed-use requirements.**

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- A. Residential Mixed-Use Requirements. The purpose and intent of requiring specific standards for residential mixed-use developments is to determine:
1. Compatibility of land uses by establishing specific standards and incentives for residential mixed-use developments to ensure and promote consistency in design, construction, and scale;
  2. Proximity of housing to services by providing opportunities for residents to live close to areas of shops, offices and other urban amenities, in order to facilitate access to such services and places of employment, and also to promote pedestrian orientation while decreasing the need for automobile trips;

3. Consistent application of design standards for all new or renovated buildings within the Historic Main Street and [East Downtown Berlin Park](#)-neighborhoods, as applicable; and

4. Ensure that the residents of mixed-use developments are provided with the same amenities afforded other multifamily developments throughout the city.

B. Applicability. Residential mixed-use development is permitted as established in the Downtown neighborhood Land Use Matrix of this chapter.

1. A minimum of one floor must be dedicated to residential use to qualify as a mixed-use development.

2. [Except for the promenade](#). Historic Main ground floor [area](#) must be [at least 50 percent](#) commercial. (Ord. 006/2009 § 3)

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#### 18.12.190 Special uses.

A. Mobile Vendors. The purpose of this section is to regulate the activities of mobile vendors, where permitted, and promote the safety and welfare of the general public.

1. Requirements.

a. Submit a site plan that includes the elements described in MMC [18.82.030](#).

b. Submit property owner's written approval to locate on property.

c. Provide a signed agreement with a neighboring property owner within two hundred feet of the business for use of restrooms.

d. All mobile vendors engaged in the sale of food shall comply with all laws, rules, and regulations regarding food handling and provide a statement of approval from the Snohomish Health District. All vehicles or conveyances used by mobile vendors shall

comply with all applicable laws, rules, and regulations as established by the Washington State Motor Vehicle Code and the Monroe Municipal Code.

e. If inside seating is provided within the vehicle or unit, compliance with the accessibility code is required including, but not limited to:

- i. Accessible ramp;
- ii. Aisle width of thirty-six inches;
- iii. Door width of thirty-six inches;
- iv. Seating to accommodate a wheelchair;
- v. An accessible restroom within the vehicle/unit.

f. Vehicles must bear a seal that indicates it has been inspected and approved by L & I.

2. Business License. A business license is required for all mobile vendors prior to conducting business, in conformance with licensing requirements established in Chapter [5.02](#) MMC, Business Licenses.

3. Site Restrictions.

a. Mobile vendors shall be limited to two, per linear block on each side of the street, if the vendors are separated by a minimum distance of one hundred feet.

b. No mobile vendor shall sell or convey goods in the public right-of-way.

- c. Mobile vendors cannot obstruct the passage of any sidewalk, street, avenue, alley or any other public place, by causing people to congregate at or near the place where any article is being sold or offered for sale.
- d. No merchandise will be offered, displayed, or sold, and no customers served, in any vehicle travel lane.
- e. Mobile vendors cannot conduct business unless the vehicle or conveyance is parked and operated in full compliance with the traffic and sidewalk ordinances of the city, in effect at the time of application or as hereafter amended.
- f. This section shall not apply to vendors operating in conjunction with, and at the location of, events known as the farmers' market or as part of permitted special event, per Chapter [5.28](#) MMC.
- g. No temporary/portable restrooms are allowed on site.
- h. All mobile vendors shall clean up all litter originating from their business, each day, within a one hundred fifty-foot radius of the location where sales occur.

B. Community-Oriented Open-Air Markets.

1. The purpose of this chapter is to regulate community-oriented open-air markets within the downtown commercial zone, including farmers' markets, art fairs, and the like. Community-oriented open-air markets are intended to be operated by a public or private organization, which is open to the public and operates from individual booths or stands.
2. Permitted Uses.
  - a. All fruits, vegetables, berries, butter, eggs, milk, or any farm produce sold by the grower or a representative.
  - b. Edibles raised or caught by the seller, including fish and meats.

c. The sale of goods and products produced by artisans, crafts persons, or their representative.

d. Sale of food and beverages prepared on site such as concession stands.

3. Prohibited Uses.

a. The secondhand sale of goods and products;

b. The sale of any raw meat, fish or poultry product unless approved by the Snohomish Health District;

c. The sale of any beverage or food unless appropriately licensed from the Snohomish Health District; and

d. No sound amplification system shall be used in conjunction with the market, which produces noise and which is audible beyond the boundaries of the area designated in the application per MMC [18.10.270](#), Performance standards.

4. Required License and Permits.

a. A business license from the city must be obtained by the sponsoring organization in conformance with licensing requirements established in Chapter [5.02](#) MMC, Business Licenses.

b. Any permits required by the Snohomish County Health District.

c. Exemptions. Required license and permits shall not be applied to any farmer, gardener or other person who sells any fruits, vegetables or other farm produce or edibles produced by such person within Snohomish County, Washington, and exempt pursuant to RCW [36.71.090](#) from paying any fee or application. Such persons are exempt from the licensing and fee requirements of Chapter [5.02](#) MMC.

d. A special event permit will be required per Chapter [5.28](#) MMC, for events on public property. (Ord. 026/2011 § 2 (Exh. 1); Ord. 006/2009 § 3)

**18.12.200 Downtown planning area bulk requirements.**

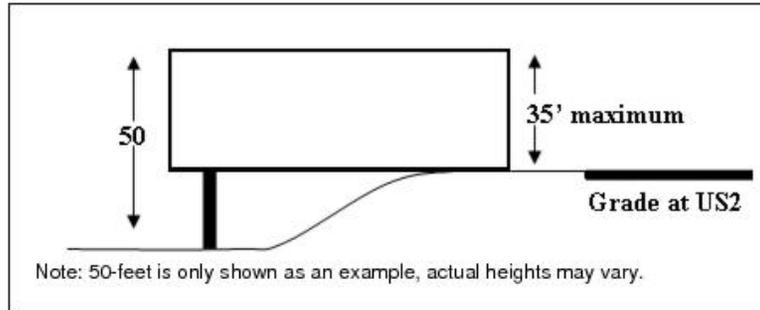
Site Requirement	Downtown Commercial Zone Neighborhoods			
	Downtown Neighborhood	Rails and Roads Neighborhood	Historic Main Area <sup>1</sup>	Borlin Park Neighborhood
District Symbol	DN	RR	HM	BP
Minimum Building Front/Street Setbacks (In Feet)	10 ft. – Living 20 ft. – Garage 20 ft. – Office	25 ft. from arterial 20 ft. from all other streets	None	None
Minimum Building Rear Setbacks (In Feet)	Single story – 5 ft. add 2 ft. for each additional story	As per IBC and IFC <sup>2</sup>	As per IBC and IFC <sup>2</sup>	As per IBC and IFC <sup>2</sup>
Minimum Building Side Setbacks (In Feet)	Single story – 5 ft. add 2 ft. for each additional story	As per IBC and IFC <sup>2</sup>	As per IBC and IFC <sup>2</sup>	As per IBC and IFC <sup>2</sup>
Maximum Lot Coverage of Structures and Other Impervious Surfaces	75%	None	None	85% <sup>2</sup>
Minimum Landscaped	Per Chapter <a href="#">18.78</a>	Per Chapter <a href="#">18.78</a>	Per Chapter <a href="#">18.78</a> MMC	Per Chapter

Area/Landscaping Requirements	MMC	MMC		<a href="#">18.78</a> MMC
Maximum Height (In Feet)	35 ft.	35 ft. <sup>5</sup>	35 ft. <sup>3</sup>	35 ft. <sup>3</sup>
Maximum Height Bonus (In Feet) for Mixed-Use Buildings	None	None	55 ft.	55 ft.
Ground Floor Use Requirement for Mixed-Use Buildings	None	None	Commercial <u>(60% of ground floor area shall be commercial. Commercial uses shall occupy that part of the building's ground floor fronting the street.</u>	None
Design Criteria	None	None	Yes – MMC 18.12.150	Yes – MMC 18.12.160
Minimum First Story Height (Mixed-Use)	None	None	15 ft.	15 ft.
Minimum Lot Area	SFR – 4,000 sq. ft. Duplex – 8,000 sq. ft. Office – 4,000 sq.	None	None	None

	ft.			
Floor Area Ratio (FAR)	N/A	N/A	1.7:1	1.7:1
Bonus FAR for Residential	N/A	N/A	0.5 <sup>4</sup>	0.5 <sup>4</sup>
Bonus FAR for Underground Parking	N/A	N/A	0.5 <sup>5</sup>	0.5 <sup>5</sup>

1. New single-family development in the Historic Main neighborhood will follow the bulk requirements for the downtown neighborhood.
2. Critical areas located on the lot count toward the FAR.
3. Mixed-use facilities may achieve twenty-foot height bonus.
4. If the structure is mixed-use, a minimum of one story must be dedicated to residential use.
5. Bonus FAR of 0.5 for buildings which provide one full level of parking below grade.

6. Maximum height of thirty-five feet is measured from the grade level at U.S. Highway 2 to the roofline for buildings fronting U.S. Highway 2 (see diagram



below).

(Ord. 026/2011 § 2 (Exh. 1); Ord. 006/2009 § 3)

**18.12.210 General downtown commercial requirements for the Historic Main and ~~Berlin Park~~ East Downtown neighborhoods.**

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- A. Development Standards.

1. Minimum height of ground floor shall be fifteen feet in height, from top to top of the successive finished floor surfaces on applicable buildings, as illustrated in Figure 18.12-1. Figure 18.12-1 shows a ground floor height of fifteen feet.

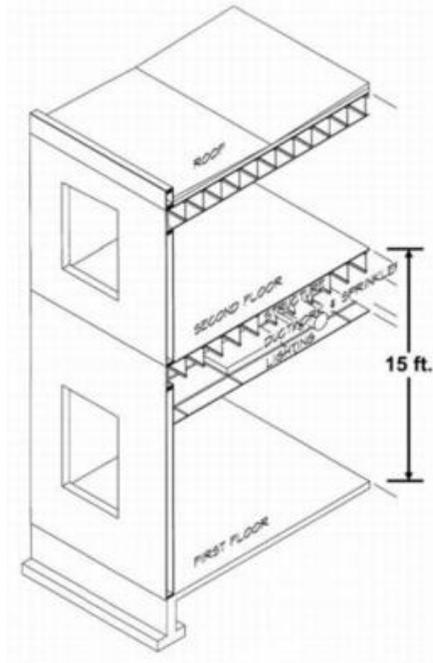


Figure 18.12-1: Ground Floor Height Measurement

2. Floor Area Ratio (FAR) Bonus. New or renovated buildings, as applicable, may attain a 0.5 FAR bonus for mixed-use buildings, if a minimum of one floor is dedicated to residential use.

3. Ground Floor. ~~A minimum of 50 percent of the ground floor square footage shall consist of commercial uses. Commercial uses shall occupy the entire street facing portion of the building. Commercial uses shall be located on the ground floor,~~ as applicable. The elevation of the ground floor and associated entry shall be within seven inches of the grade level of the adjoining sidewalk. "Grade" shall be as measured at the entry location.

4. Exceptions and Clarifications.

a. Parking is not considered to be a commercial use for the purposes of satisfying the ground floor commercial use requirement.

Ground floor parking is allowed under the following circumstances:

i. The parking lot is behind commercial suites on the ground level.

ii. Commercial use requirement will be satisfied on the second story.

iii. Additional landscape screening is provided.

b. Commercial space located on the ground floor shall be directly accessible, by an entry, from the sidewalk. (Ord. 006/2009 § 3)

**18.12.220 Downtown commercial parking.** 

A. Off-street parking shall be provided per Chapter [18.86](#) MMC, throughout the downtown commercial zone, with the following exceptions:

1. The Historic Downtown neighborhood is exempt from off-street commercial parking requirements; however, for new construction on-site parking is encouraged when feasible.

B. The director or designee may approve a reduction of up to twenty percent of the required off-street parking spaces, per MMC [18.86.050](#), when the applicant provides one or more of the following:

1. The applicant submits a parking study, by a qualified professional, substantiating that the parking need can be met by the proposed reduction.
2. The applicant sets aside land equal to the reduction area, which can be converted to parking, if a change in use or tenant occurs that increases the minimum required off-street parking, per MMC [18.86.050](#); in such case, the land set aside must be converted to parking.
3. For every five bicycle spaces provided, per subsection (C) of this section, or for each bicycle locker (two-bicycle capacity), the minimum motor vehicle parking space requirements may be reduced by one space up to five percent of the total required off-street parking spaces.
4. On sites where at least twenty parking spaces are required and where at least one frontage abuts a designated roadway, transit supportive plazas may be substituted for up to ten percent of required vehicle parking when:
  - a. The plaza is adjacent to the arterial street (if there is a bus stop along the site's frontage, the plaza must be adjacent to the bus stop);
  - b. The plaza must be at least two hundred square feet in area and be shaped so that a ten-foot by ten-foot square will fit entirely within the plaza; and
  - c. The plaza must be open to the public, contain a bench or other sitting area and shall have at least ten percent and no more than twenty-five percent landscaping.
5. The applicant enters into joint parking agreement, for use of a cooperative parking facility, in accordance with MMC [18.86.070](#) and [18.86.080](#). Through a joint parking agreement, the twenty percent reduction may be increased if all cooperative parking facility criteria are met.

C. Standards for Bicycle Parking. Any bicycle parking implemented under this section must meet the following standards:

1. Bicycle parking must be provided at the ground level, and may be provided in floor or wall racks that hold bicycles securely. Bicycles may be tipped vertically for storage, but not hung above the ground. If the bicycle parking is placed in the public right-of-way, it shall not obstruct pedestrian walkways or damage required landscaping.

2. Where required bicycle parking is provided with racks, the racks must meet the following standards:

a. The rack must hold the bicycle securely by means of the frame. The frame must be able to be supported so that the bicycle cannot be pushed or fall to one side in a manner that will damage the wheels;

b. The bicycle frame and one wheel can be locked to the rack with a high-security, U-shaped shackle lock if both wheels are left on the bicycle;

c. The rack must be securely anchored to the ground or adjacent structure with theft-resistant hardware.

3. Where bicycle parking is provided with lockers, such lockers must meet the following standards:

a. An area of at least six feet of horizontal distance shall be provided around the entrance of each locker that is free from obstructions; and

b. The lockers must be securely anchored to the ground or adjacent structure with theft-resistant hardware.

D. Underground parking is encouraged throughout the downtown commercial zone. (Ord. 026/2011 § 2 (Exh. 1); Ord. 006/2009 § 3)

**MONROE PLANNING COMMISSION**  
**Agenda Item Cover Sheet**

<b>TITLE:</b>	<b><i>Critical Areas Ordinance - Amendments</i></b>
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<b>DATE:</b>		<b>CONTACT:</b>	<b>PRESENTER:</b>	<b>ITEM:</b>
08/22/16		David Osaki	Dave Osaki	New Business

**Discussion:** 08/22/2016

**Public Hearing:** None

**Attachments:** 1. Draft Ordinance - Critical Areas (MMC Chapter 20.05 (Critical Areas))

**DESCRIPTION/BACKGROUND**

One of the items to be considered during 2016 are amendments to the City's critical areas ordinance.

A draft ordinance has been prepared (attachment 1). Background information regarding the amendments will be briefly introduced and discussed at the Planning Commission's August 22, 2016 meeting, in anticipation of more detailed discussion at future meetings.

<b>RECOMMENDED ACTION</b>	Discussion.
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**CITY OF MONROE  
ORDINANCE NO. 0XX/2016**

AN ORDINANCE OF THE CITY OF MONROE, WASHINGTON, UPDATING CRITICAL AREAS REGULATIONS BY AMENDING SECTIONS 20.05.030, 20.05.050, 20.05.060, 20.05.070, AND 20.05.080 OF THE MONROE MUNICIPAL CODE TITLE 20 RELATED TO WETLAND DELINEATION, EVALUATION, PROTECTION, AND MITIGATION; OTHER MINOR AMENDMENTS TO PROVIDE CLARIFICATION AND CORRECT ERRORS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

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WHEREAS, pursuant to RCW 36.70A.130(1)(a), the City is required to periodically review and, if needed, revise its development regulations, including its critical areas regulations, to ensure its regulations comply with the goals and requirements of the Growth Management Act; and

WHEREAS, Chapter 20.05 of the Monroe Municipal Code (MMC) contains the City's development regulations pertaining to the protection of critical areas; and

WHEREAS, the proposed amendments are supported by best available science and the Department of Ecology's guidance found in publication #10-06-002, titled "Wetlands and CAO Updates: Guidance for Small Cities"; and

WHEREAS, the environmental impacts of the amendments to MMC Chapter 20.05, Critical Areas, resulted in the issuance of a Determination of Non-Significance (DNS) on \_\_\_\_\_, 2016 with no appeals filed; and

WHEREAS, the City issued a Notice of Public Hearing on \_\_\_\_\_, 2016, which was at least 15 days prior to the date of the public hearing pursuant to MMC 21.40.020(A)(1); and

WHEREAS, MMC subsection 21.20.040(B) requires that amendments to the subdivision code, zoning code, and environmental code (MMC Titles 17 through 20) require Planning Commission review and recommendation; and

WHEREAS, the City of Monroe Planning Commission held a duly noticed public hearing on \_\_\_\_\_, 2016, which was continued to \_\_\_\_\_, 2016, to accept public testimony on the proposed code amendments; and

WHEREAS, at the conclusion of \_\_\_\_\_, 2016 public hearing, the Planning Commission voted unanimously to recommend approval of the proposed amendment; and

WHEREAS, the Monroe City Council conducted a first reading of the proposed ordinance on \_\_\_\_\_, 2016 and second reading on \_\_\_\_\_, 2016 to discuss the proposed critical areas regulations amendments at duly noticed public meetings; and

WHEREAS, pursuant to RCW 36.70A.106, the City has provided the Washington State Department of Commerce with a 60-day notice of intent to adopt the amendments to its development regulations; and

WHEREAS, the City Council has considered the entire public record, the Best Available Science, and the Planning Commission's recommendation, modifying the recommendation as needed; and

WHEREAS, the City Council has determined that the proposed amendments are necessary to ensure compliance with the goals and requirements of the Growth Management Act (RCW 36.70A);

WHEREAS, the City Council has determined that the proposed amendments are in accord with the Comprehensive Plan; and

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MONROE DO ORDAIN AS FOLLOWS:

**Section 1. Amendment of MMC 20.05.030, Definitions.** Section 20.05.030 of the Monroe Municipal Code is hereby amended as follows:

**20.05.030 Definitions.**

“Active fault” means a fault that is considered likely to undergo renewed movement within a period of concern to humans. Faults are commonly considered to be active if the fault has moved one or more times in the last ten thousand years.

“Adjacent” means immediately adjoining (in contact with the boundary of the influence area) or within a distance less than that needed to separate activities from critical areas to ensure protection of the functions and values of the critical areas. Adjacent shall mean any activity or development located:

1. On site immediately adjoining a critical area; or
2. A distance equal to or less than the required critical area buffer width and building setback.

“Alteration” means any human-induced change in an existing condition of a critical area or its buffer. Alterations include, but are not limited to, grading, filling, dredging, channelizing, clearing (vegetation), applying pesticides, discharging waste, construction, compaction, excavation, modifying for storm water management, relocating, or other activities that change the existing landform, vegetation, hydrology, wildlife or wildlife habitat value of critical areas.

“Anadromous fish” means fish that spawn in fresh water and mature in the marine environment.

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

“Aquifer recharge area” means an area that, due to the presence of certain soils, geology, and surface water, acts to recharge groundwater by percolation.

“Area of special flood hazard” means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V. The term “special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard.”

“Base flood” means a flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the “one-hundred-year flood.”

“Base flood elevation” means the water surface elevation of the base flood. It shall be referenced to the National Geodetic Vertical Datum of 1929 (NGVD).

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

“Best management practices” means conservation practices or systems of practice and management measures that:

1. Control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxins, and sediment;
2. Minimize adverse impacts to surface water and groundwater flow, circulation patterns, and the chemical, physical, and biological characteristics of wetlands;
3. Protect trees and vegetation designated to be retained during and following site construction; and
4. Provide standards for proper use of chemical herbicides within critical areas.

“Buffer” means the zone contiguous with a critical area that is required for the continued maintenance, function, and structural stability of the critical area.

“Building setback line (BSBL)” means a line beyond which the foundation of a building shall not extend.

“Channel migration zone (CMZ)” means the lateral extent of likely movement along a stream or river during the next one hundred years as determined by evidence of active stream channel migration movement over the past one hundred years.

“City” means the city of Monroe.

“Clearing” means the destruction and removal of vegetation by any means and includes grubbing vegetation.

“Compensation project” means actions specifically designed to replace project-induced critical area and buffer losses. Compensation project design elements may include, but are not limited to, land acquisition, planning, construction plans, monitoring, and contingency actions.

“Compensatory mitigation” means types of mitigation used to replace project-induced critical area and buffer losses or impacts. Compensatory mitigation includes, but is not limited to, the following:

1. Restoration. Actions performed to reestablish functional characteristics that are lost or degraded due to unauthorized alteration, past management activities, or catastrophic events within an area that no longer meets the definition of a critical area.
2. Creation. Actions performed to intentionally establish a critical area at a site where it did not formerly exist.
3. Enhancement. Actions performed to improve the condition of an existing critical area so that the functions it provides are of a higher quality.

“Critical aquifer recharge area” means areas designated by WAC [365-190-080\(2\)](#) that are determined to have critical recharging effect on aquifers used for potable water as defined by WAC [365-190-030\(2\)](#).

“Critical areas” means any of the following areas or ecosystems: critical aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, and wetlands as defined by the Growth Management Act (Chapter [36.70A](#) RCW) and this chapter.

“Developable area” means areas outside of any critical areas and their required setbacks or buffers.

“Development” means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. “Development” also means subdivision of a parcel or parcels into one or more lots.

“Development permit” means any permit issued by the city of Monroe, or other authorized agency, for construction, land use, or the alteration of land.

“Director” refers to the community development director for the city of Monroe.

“Engineering geologist” means a practicing professional engineering geologist licensed with the state of Washington.

“Erosion” means the process by which soil particles are mobilized and transported by natural agents such as wind, rain, frost action, or stream flow.

“Erosion hazard area” means those areas of Monroe containing soils which, according to the USDA Soil Conservation Service, Snohomish County Soil Survey dated 1983, may experience severe to very severe erosion hazard.

“Fish and wildlife habitat conservation areas” means areas necessary for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created as designated by WAC [365-190-080\(5\)](#). These areas include:

1. Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association;
2. Habitats of local importance, including, but not limited to, areas designated as priority habitat by the Department of Fish and Wildlife;
3. Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish and wildlife habitat;
4. Waters of the state, including lakes, rivers, ponds, streams, inland waters, underground waters, salt waters and all other surface water and watercourses within the jurisdiction of the state of Washington;
5. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity;
6. State natural area preserves and natural resources conservation areas; and
7. Land essential for preserving connections between habitat blocks and open spaces.

“Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters and/or the unusual and rapid accumulation of runoff or surface waters from any source.

“Flood fringe” means that portion of the floodplain outside of the floodway which is covered by floodwaters during the base flood; it is generally associated with standing water rather than rapidly flowing water.

“Flood Insurance Rate Map (FIRM)” means the official map on which the Federal Insurance Administration has delineated many areas of flood hazard, floodways, and the risk premium zones.

“Floodplain” means the total area subject to inundation by the base flood including the flood fringe and floodway.

“Floodway” means the channel of a river or other watercourse and the adjacent land area that must be reserved in order to discharge the base flood without cumulatively increasing the surface water elevation more than one foot.

“Floodway-dependent structure” means structures that are floodway-dependent including, but not limited to, dams, levees and pump stations, stream bank stabilization, boat launches and related recreational structures, bridge piers and abutments, and fisheries enhancement or stream restoration projects.

“Formation” means an assemblage of earth materials grouped together into a unit that is convenient for description or mapping.

“Formation, confining” means the relatively impermeable formation immediately overlaying a confined aquifer.

“Frequently flooded areas” means lands in the floodplain subject to a one percent or greater chance of flooding in any given year and those lands that provide important flood storage,

conveyance, and attenuation functions, as determined by the director, in accordance with WAC [365-190-080](#)(3).

“Functions and values” means the beneficial roles served by critical areas, including, but not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation, groundwater recharge and discharge, erosion control, and recreation.

“Geologically hazardous areas” 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 erosion, landslide, seismic, mine, and volcanic hazards.

“Geologist” means a practicing professional geologist licensed with the state of Washington.

“Geotechnical engineer” means a practicing professional geotechnical/civil engineer licensed with the state of Washington.

“Grading” means any excavation, clearing, filling, leveling, or contouring of the ground surface by human or mechanical means.

“Hazard areas” means areas designated as frequently flooded or geologically hazardous areas due to potential for erosion, landslide, seismic activity, mine collapse, or other geologically hazardous conditions.

“Heavy equipment” means such construction machinery as backhoes, treaded tractor, dump trucks, and front-end loaders.

“Hydraulic project approval (HPA)” means a permit issued by the state Department of Fish and Wildlife for modification to waters of the state in accordance with Chapter [75.20](#) RCW.

“Hydrologist” means a practicing professional hydrologist licensed with the state of Washington.

“Impervious surface” means a hard surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development or that causes water to run off the surface in greater quantities or at an increased rate of flow from the present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, parking lots, storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled macadam or other surfaces which similarly impede the natural infiltration of storm water.

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

“Joint aquatic resources permit application (JARPA)” means a single application form that may be used to apply for hydraulic project approvals, shoreline management projects, approval of exceedance of water quality standards, water quality certifications, Coast Guard bridge permits, Department of Natural Resources use authorization, and Army Corps of Engineer permits.

“Lake” means an area permanently inundated by water in excess of two meters deep and greater than twenty acres in size measured at the ordinary high water mark.

“Landslide” means episodic down-slope movement of a mass of soil or rock that includes, but is not limited to, rock falls, slumps, mudflows, and earthflows.

“Landslide hazard areas” means areas that are potentially subject to risk of mass movement due to a combination of geologic landslides resulting from a combination of geologic, topographic, and hydrologic factors.

“Minor utility project” means the placement of a utility pole, street sign, anchor, vault, or other small component of a utility facility, where the disturbance of an area is less than seventy-five square feet.

“Mitigation” means avoiding, minimizing, or compensating for adverse impacts on critical areas. Mitigation shall use any of the actions that are listed below in descending order of preference:

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

“Monitoring” means the collection of data by various methods for the purpose of understanding natural systems and features, evaluating the impact of development proposals on such systems, and assessing the performance of mitigation measures imposed as conditions of development.

“Native vegetation” means plant species that are indigenous to the area in question.

“Native growth protection easement (NGPE)” means an easement granted to the city of Monroe for the protection of native vegetation within a critical area or its associated buffer. The NGPE shall be recorded on the appropriate documents of title and filed with the Snohomish County recordings division.

“Ordinary high water mark” means the mark that will be found by examining the bed and banks of a stream and ascertaining where the presence and action of waters are so common and usual, and so long maintained in all ordinary years, that the soil has a character distinct from that of the abutting upland, in respect to vegetation. In any area where the ordinary high water

mark cannot be found, the line of mean high water shall substitute. In braided channels and alluvial fans, the ordinary high water mark or substitute shall be measured so as to include the entire stream feature.

“Potable water” means water that is safe and palatable for human use.

“Practical alternative” means an alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, and having less impacts to critical areas.

“Project area” means all areas within fifty feet of the area proposed to be disturbed, altered, or used by the proposed activity or the construction of any proposed structures.

“Priority habitat” means habitat types or elements with unique or significant value to one or more species as classified by the state Department of Fish and Wildlife.

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

1. A qualified professional for habitats or wetlands must have a degree in biology or a related environmental science and professional experience related to the subject.
2. A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the state of Washington.
3. A qualified professional for critical aquifer recharge areas must be a hydrologist, geologist, engineer, or other scientist with experience in preparing hydrological assessments.

“Reasonable use” means the minimum to which a property owner is entitled under applicable state and federal constitutional provisions, including takings and substantive due process.

“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.

“Salmonid” means a member of the fish family Salmonidae. In Snohomish County, chinook, coho, chum, sockeye, and pink salmon; cutthroat, brook, brown, rainbow, and steelhead trout; kokanee; and native char (bull trout and Dolly Varden).

“Section 404 permit” means a permit issued by the Army Corp of Engineers for the placement of dredge or fill material waterward of the ordinary high water mark or clearing in waters of the United States, including wetlands, in accordance with 33 United State Code (USC) Section 1344.

“Seismic hazard areas” means areas that are subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, or soil liquefaction.

“Species, endangered” means a fish or wildlife species that is threatened with extinction throughout all or a significant portion of its range and is listed by the state or federal government as an endangered species.

“Species, threatened” means any fish or wildlife species that is likely to become an endangered species within the foreseeable future throughout a significant portion of its range without cooperative management or removal of threats, and is listed by the state or federal government as a threatened species.

“Steep slopes” means those slopes forty percent or steeper within a vertical elevation change of at least ten feet. A slope is defined by establishing its toe and top and is measured by averaging the inclination over at least ten feet of vertical relief. For the purpose of this definition:

1. The toe of slope is a distinct topographical break in slope that separates slopes inclined at less than forty percent from slopes forty percent or steeper. When no distinct break exists, the toe of slope of a steep slope is the lowermost limit of the area where the ground surface drops ten feet or more vertically within a horizontal distance of twenty-five feet; and
2. The top of slope is a distinct, topographical break in slope that separates slopes inclined at less than forty percent from slopes forty percent or steeper. When no distinct break exists, the top of slope is the uppermost limit of the area where the ground surface drops ten feet or more vertically within a horizontal distance of twenty-five feet.

“Stream” means water contained within a channel, either perennial or intermittent, and classified according to WAC [222-16-030](#) or [222-16-031](#) and as listed under “water typing system.” Streams also include natural watercourses modified by man. Streams do not include irrigation ditches, waste ways, drains, outfalls, operational spillways, channels, storm water runoff facilities, or other wholly artificial watercourses, except those that directly result from the modification to a natural watercourse.

“Topping” means the severing of main trunks or stems of vegetation at any place above twenty-five percent of the vegetation height.

“Unavoidable” means adverse impacts that remain after all appropriate and practicable avoidance and minimization have been achieved.

“Understory” means the vegetation layer of a forest that includes shrubs, herbs, grasses, and grass-like plants, but excludes trees.

“Utility” means a service and/or facility that produces, transmits, carries, stores, processes, or disposes of electrical power, gas, potable water, storm water, communications (including, but not limited to, telephone and cable), sewage, oil and the like.

“Vegetation” means any and all organic plant life growing below, at, and above the soil surface.

“Vegetation alteration” means any clearing, grading, cutting, topping, limbing, or pruning of vegetation.

“Water resources inventory area (WRIA)” means one of sixty-two watersheds in the state of Washington, each composed of the drainage areas of a stream or streams, as established in

Chapter [173-500](#) WAC as it existed on January 1, 1997. The city of Monroe is within WRIA 7 (Snohomish Basin).

“Water typing system” means waters are classified according to WAC [222-16-031](#):

1. Type 1 Water. All waters, within their ordinary high water mark, as inventoried as “shorelines of the state” under Chapter [90.58](#) RCW and the rules adopted by Chapter [90.58](#) RCW, but not including those waters’ associated wetlands.

2. Type 2 Water. Segments of natural waters that are not classified as Type 1 waters and have a high fish, wildlife, or human use. These are segments of natural waters and periodically inundated areas of their associated wetlands that:

a. Are diverted for domestic use by more than one hundred residential or camping units or by a public accommodation facility licensed to serve more than ten persons, when such diversion is determined by the state Department of Natural Resources to be a valid appropriation of water and only considered Type 2 water upstream from the point of such diversion for one thousand five hundred feet or until the drainage area is reduced by fifty percent, or whichever is less;

b. Are diverted for use by federal, state, tribal or private fish hatcheries. Such waters shall be considered Type 2 water upstream from the point of diversion for one thousand five hundred feet, including tributaries if highly significant for protection of downstream water quality;

c. Are within a federal, state, local, or private campground having more than thirty camping units; provided, that the water shall not be considered to enter a campground until it reaches the boundary of the park lands available for public use and comes within one hundred feet of a camping unit;

d. Are used for fish spawning, rearing or migration. Waters having the following characteristics are presumed to have highly significant fish populations:

i. Stream segments having a defined channel twenty feet or greater within the bankfull width and having a gradient of less than four percent;

ii. Lakes, ponds, or impoundments having a surface area of one acre or greater at seasonal low water; or

e. Are used by fish for off-channel habitat. These areas are critical to the maintenance of optimum survival of fish. This habitat shall be identified based on the following criteria:

i. The site must be connected to a fish-bearing stream and accessible during some period of the year; and

ii. The off-channel water must be accessible to fish through a drainage with less than a five percent gradient.

3. Type 3 Water. Segments of natural waters that are not classified as Type 1 or 2 waters and have a moderate to slight fish, wildlife, and human use. These are segments of natural waters and periodically inundated areas of their associated wetlands that:

a. Are diverted for domestic use by more than ten residential or camping units or by a public accommodation facility licensed to serve more than ten persons, where such diversion is determined by the state Department of Natural Resources to be a valid appropriation of water and the only practical water source for such use. Such waters shall be considered to be Type 3 water upstream from the point of such diversion for one thousand five hundred feet or until the drainage area is reduced by fifty percent, whichever is less;

b. Are used by fish for spawning, rearing, or migration. The requirements for determining fish use are described in the State Forest Practices Board Manual, Section 13. If fish use has not been determined:

i. Stream segments having a defined channel of two feet or greater within the bankfull width in Western Washington and having a gradient of sixteen percent or less;

ii. Stream segments having a defined channel of two feet or greater within the bankfull width, and having a gradient greater than sixteen percent and less than or equal to twenty percent and having an area greater than fifty acres in contributing basin size based on hydrographic boundaries;

iii. Ponds or impoundments having a surface area greater than one-half acre at seasonal low water and having an outlet to a fish stream;

iv. Ponds or impoundments having a surface area greater than one-half acre at seasonal low water.

4. Type 4 Water. All segments of natural waters within the bankfull width of defined channels that are perennial nonfish habitat streams. Perennial streams are waters that do not go dry any time of a year of normal rainfall. However, for the purpose of water typing, Type 4 waters include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow. If the uppermost point of perennial flow cannot be identified with simple, nontechnical observations (see State Forest Practices Board Manual, Section 23), the Type 4 waters begin at a point along the channel where the contributing basin area is at least thirteen acres.

5. Type 5 Water. All segments of natural waters within the bankfull width of defined channels that are not Type 1, 2, 3, or 4 waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of the year and are not located downstream from any stream reach that is a Type 4 water. Type 5 waters must be physically connected by an above-ground channel system to Type 1, 2, 3, or 4 waters.

“Wetland” means those areas that are inundated or saturated by ground or surface 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. Wetlands generally include swamps, marshes, bogs, and similar areas.

Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, swales, canals, detention facilities, wastewater treatment facilities,

farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway.

Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate conversion of wetlands.

Wetland Classifications. There are three general types of wetlands as classified by the U.S. Fish and Wildlife Service (Cowardin, et al., 1979):

1. Emergent. A wetland with at least thirty percent of the surface area covered by erect, rooted, herbaceous vegetation extending above the water surface as the uppermost vegetation strata;
2. Forested. A wetland with at least twenty percent of the surface area covered by woody vegetation greater than twenty feet in height; and
3. Scrub-shrub. A wetland with at least thirty percent of its surface area covered by woody vegetation less than twenty feet as the uppermost strata.

Wetland Edge. Delineation of the wetland edge shall be based on the ~~Washington State Wetland Identification and Delineation Manual, Department of Ecology, 1997, and Publication 96-94 approved federal wetland delineation manual and applicable regional supplements~~ or as revised.

Wetlands Rating System. Wetlands shall be rated according to the Washington State Wetland Rating System for Western Washington, Department of Ecology, ~~1997, Publication 3-742014 Update, Publication #14-06-029~~ or as revised.

~~1. Category I. Category I wetlands are those that meet the following criteria:~~

- ~~a. Documented habitat for federal or state-listed endangered or threatened fish, animal or plant species; or~~
- ~~b. High quality native wetland communities, including documented Category I or II quality natural heritage wetland sites and sites which qualify as Category I or II quality natural heritage wetlands; or~~
- ~~c. High quality, regionally rare wetland communities with irreplaceable ecological functions, including sphagnum bogs and fens, estuarine wetlands, or mature forested swamps; or~~
- ~~d. Wetlands of exceptional local significance.~~

~~2. Category II. Category II wetlands are those not defined as Category I wetlands and that meet the following criteria:~~

- ~~a. Documented habitats for state-listed sensitive plant, fish, or animal species; or~~
- ~~b. Wetlands that contain plant, fish, or animal species listed as a priority species by the state Department of Fish and Wildlife; or~~

~~c. Wetland types with significant functions that may not be adequately replicated through creation or restoration; or~~

~~d. Wetlands possessing significant habitat value based on a score of twenty-two or more points in the habitat rating system; or~~

~~e. Documented wetlands of local significance.~~

~~3. Category III. Category III wetlands are those that do not satisfy Category I, II, or IV criteria, and with a habitat rating of twenty-one points or less.~~

~~4. Category IV. Category IV wetlands are those that meet the following criteria:~~

~~a. Hydrologically isolated wetlands that are less than or equal to one acre in size, have only one wetland class, and are dominated (greater than eighty percent areal cover) by a single non-native plant species (monotypic vegetation); or~~

~~b. Hydrologically isolated wetlands that are less than two acres in size, and have only one wetland class and greater than ninety percent areal cover of nonnative plant species. (Ord. 004/2006 § 4; Ord. 019/2003)~~

1. **Category I.** Category I wetlands are:

a. Wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR;

b. Bogs;

c. Mature and old-growth forested wetlands larger than 1 acre; and

d. Wetlands that perform many functions well (scoring 23 points or more).

These wetlands represent unique or rare wetland types, are more sensitive to disturbance than most wetlands, are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime, and provide a high level of functions.

2. **Category II.** Category II wetlands have a moderately high level of functions (scoring between 20 and 22 points).

3. **Category III.** Category III wetlands have a moderate level of functions (scoring between 16 and 19 points) and can often be adequately replaced with a well-planned mitigation project. 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.

4. **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 we should be able to replace, or in some cases to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and should be protected to some degree.

**Section 2. Amendment of MMC 20.05.050, Applicability, exemptions, and exceptions.** Section 20.05.050 of the Monroe Municipal Code is hereby amended as follows:

**20.05.050 Applicability, exemptions, and exceptions.**

A. Applicability.

1. The provisions of this chapter shall apply to all lands, all land uses and development activity, and all structures and facilities in the city, whether or not a permit or authorization is required, and shall apply to every person, firm, partnership, corporation, group, governmental agency, or other entity that owns or leases land within the city of Monroe. No person, company, agency, or applicant shall alter a critical area or buffer except as consistent with the purpose and requirements of this chapter.

2. The city of Monroe shall not approve any development proposal or otherwise issue any authorization to alter the condition of any land, water, or vegetation, or to construct or alter any structure or improvement in, over, or on a critical area or associated buffer, without first assuring compliance with the requirements of this chapter.

- a. Development proposals include proposals that require any of the following:
- b. Building permit;
- c. Grading permit;
- d. Shoreline substantial development permit;
- e. Shoreline conditional use permit;
- f. Shoreline variance;
- g. Right-of-way disturbance permit;
- h. Conditional use permit;
- i. Variance permit;
- j. Special use permit;
- k. Planned residential development;
- l. Subdivision;
- m. Short subdivision;
- n. Binding site plan;
- o. Accessory dwelling unit;

or any subsequently adopted permits or required approvals not expressly exempted from these regulations.

3. Approval of a permit or development proposal pursuant to the provisions of this chapter does not discharge the obligation of the applicant to comply with the provisions of this chapter.

B. Exemptions. The following developments, activities, and associated uses shall be exempt from the provisions of this chapter, provided they are consistent with the provisions of other local, state, and federal laws and requirements:

1. Emergency activities that threaten public health, safety, welfare, or risk of damage to private property and that require remedial or preventative action in a time frame too short to allow for compliance with the requirements of this chapter.

Emergency actions that create an impact to a critical area or its buffer shall use reasonable methods to address the emergency; in addition, they must have the least possible impact to the critical area and/or its buffer. After the emergency, the person or agency undertaking the action shall fully restore and/or mitigate any impacts to the critical area and buffers resulting from the emergency action in accordance with the approved critical area report and mitigation plan.

2. Single-family residential building permits are exempt from the requirements of this chapter when the development proposal involves:

a. Structural modifications of addition to or replacement of an existing residential structure or construction of a new residential structure where construction and associated disturbance is clearly equal to or greater than two hundred ten feet from the nearest critical area; or

b. Structural modification of, addition to, or replacement of an existing residential structure lawfully established prior to the effective date of the ordinance codified in this title that does not meet the building setback or critical area buffer requirements may be approved only if the modification, addition, replacement or related activity is located away from the critical area and does not increase the existing footprint within the critical area buffer or building setback by more than one thousand square feet.

3. Utilities.

a. Operation, maintenance or repair of existing structures, infrastructure improvements, existing utilities, public or private roads, dikes, levees, or drainage systems, including routine vegetation management activities when performed in accordance with approved best management practices, if the activity does not increase risk to life or property as a result of the proposed operation, maintenance or repair.

b. Activities Within the Improved Right-of-Way. Replacement, modification, installation or construction of utility facilities, lines, pipes, mains, 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 culverts or bridges, or result in the transport of sediment or increased storm water, subject to the following:

- i. Critical area and/or buffer widths shall be increased, where possible, equal to the width of the right-of-way improvement, including disturbed areas; and
- ii. Retention and replanting of native vegetation shall occur wherever possible along the right-of-way improvement and resulting disturbance.

c. Minor Utility Projects. Utility projects which have minor or short-term impacts to critical areas, as determined by the director in accordance with the criteria below, and which do not significantly impact the functions and values of a critical area(s); provided, that such projects are constructed with best management practices and additional restoration measures are provided. Minor activities shall not result in the transport of sediment or increased storm water runoff. Such allowed minor utility projects shall meet the following criteria:

- i. There is no practical alternative to the proposed activity with less impacts on critical areas and all attempts have been made to first avoid impacts, minimize impacts, and lastly mitigate unavoidable impacts;
- ii. The activity involves the placement of a utility pole, street sign, anchor, vault, or other small component of a utility facility;
- iii. The activity involves disturbance of an area less than seventy-five square feet;
- iv. The activity will not reduce the existing functions and values of the affected critical areas; and
- v. Unavoidable impacts will be mitigated pursuant to an approved mitigation plan.

4. Activities and uses that do not require construction permits, in continuous existence since at least November 27, 1990, with no expansion of these activities within the critical area or associated buffer. For the purpose of this subsection, "continuous existence" includes cyclical operations normally associated with horticulture and agricultural activities.

C. Exceptions. The proponent of the activity shall submit a written request for exception from the director that describes the proposed activity and exception that applies. Depending on the exemption requested, the director (for administrative decisions) or hearing examiner (for reasonable use exceptions) shall review the exception requested to verify that it complies with this chapter and approve or deny the exception. All decisions made by either the hearing examiner or director shall be published in the official paper. If the exception is approved, it shall be placed on file with the community development department.

1. Public Agency or Utility Exception. If the application if this chapter 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 section. After holding a public hearing pursuant to MMC 21.50.030, ~~Hearing examiner review and recommendation~~, the hearing examiner may approve the exception if the hearing examiner finds that:

- a. There is no other feasible alternative to the proposed development with less impact on the critical areas, based on the demonstration by the applicant of the following factors:

- i. The applicant has considered all 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
  - ii. The applicant has considered all available alignments within the range of potential alignments that meet the project purpose and for which operating rights are available.
- b. The proposal minimizes and mitigates unavoidable impacts to critical areas and/or critical areas buffers. Any decision by the hearing examiner is final unless appealed.
2. Reasonable Use Exception. If the application of this chapter would deny all reasonable use of the property, development may be allowed which is consistent with the general purpose of this chapter and the public interest; provided, that the hearing examiner, after a public hearing, finds to the extent consistent with the constitutional rights of the applicant:
- a. This chapter would otherwise deny all reasonable use of the property;
  - b. There is no other reasonable use consistent with the underlying zoning of the property that has less impact on the critical area and/or associated buffer;
  - c. The proposed development does not pose an unreasonable threat to the public health, safety or welfare on or off the property;
  - d. Any alteration is the minimal necessary to allow for reasonable use of the property;
  - e. 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; and
  - f. The applicant may only apply for a reasonable use exception under this subsection if the applicant has also applied for a variance pursuant to Chapter [18.96](#) MMC. (Ord. 019/2003)

**Section 3. Amendment of MMC 20.05.060, Critical areas studies.** Section 20.05.060(D) of the Monroe Municipal Code is hereby amended as follows:

D. Additional Wetland Report Requirements. In addition, for wetlands, reports shall include the following:

- 1. On the map:
  - a. The edge of the wetland as flagged and surveyed in the field using the ~~Washington State Wetland Identification and Delineation Manual~~ approved federal wetland delineation manual and applicable regional supplements, as required by RCW [36.70A.157-175](#);
  - b. The edge of the one-hundred-year floodplain, if appropriate;

- c. The location of any existing or proposed utility easements, rights-of-way, and trail corridors;
  - d. The location of any proposed wetland area(s) to be created through mitigation measures; and
  - e. The location of any proposed wetland alteration or fill.
2. In the report:
- a. Description of the wetland by classification and general condition of wetland;
  - b. Description of vegetation species and community types present in the wetland and surrounding buffer;
  - c. Description of soil types within the wetland and the surrounding buffer using the USDA Soil Conservation Service soil classification system;
  - d. Description of hydrologic regime and findings;
  - e. Description of habitat features present and determination of actual use of the wetland by any endangered, threatened, rare, sensitive, or unique species of plants or wildlife as listed by the federal government or state of Washington;
  - f. Description of existing wetland and buffer functions and values;
  - g. Description of any proposed alteration to the wetland or its buffer including, but not limited to, filling, dredging, modification for storm water detention, clearing, grading, restoring, enhancing, grazing or other physical activities that change the existing vegetation, hydrology, soils or habitat;
  - h. If applicable, description of potential impacts to wetland functions and values and description of any proposed mitigation measures; and
  - i. Description of local, state, and federal regulations and permit requirements.

**Section 4. Amendment of MMC 20.05.070, Protection and mitigation measures.**

Section 20.05.070(I) of the Monroe Municipal Code is hereby amended as follows:

- I. Limited Density Transfer – Density Credit of Critical Areas.
  - 1. An owner of property containing a critical area may be permitted to transfer the density attributed to the critical area to another, not containing a critical area(s) or its buffer portion of the same site or property, subject to the limitations of this section.
  - 2. Up to one hundred percent of the density that could be achieved on the critical area and buffer portion of the site can be transferred to a portion of the site not containing a critical area, subject to:
    - a. The density limitation of the underlying zoning classification;

- b. The minimum lot size of the underlying zoning classification may be reduced by thirty percent (or as revised by the planned residential development standards, but not both) in order to accommodate the transfer in densities;
- c. All other applicable standards established in Chapter [18.10](#) MMC including but not limited to zoning lot area, lot coverage, and setback requirements shall be met; and
- d. The area to which density is transferred shall not be constrained by other critical areas regulation. (Ord. 026/2011 § 2 (Exh. 1); Ord. 019/2003)

**Section 5. Amendment of MMC 20.05.080, Wetland development standards.** Section 20.05.080 of the Monroe Municipal Code is hereby amended as follows:

**20.05.080 Wetland development standards.**

A. General Standards. Activities and uses shall be prohibited from wetlands and wetland buffers, except as provided by this chapter. The following activities may only be permitted in a wetland or wetland buffer if the applicant can demonstrate that the activity will not degrade the functions and values of the wetland and other critical areas.

- 1. Category I Wetlands. Activities and uses shall be prohibited from Category I wetlands, except as provided in the public agency and utility exception, reasonable use exception, and variance sections of this chapter.
- 2. Category II and III Wetlands. The following standards shall apply to Category II and III wetlands:
  - a. Water-dependent activities as provided for under the City's Shoreline Master Program may be allowed where there are no practicable alternatives that would have a less adverse impact on the wetland and other critical areas.
  - b. Where non-water-dependent activities are proposed, it shall be presumed that alternative locations are available, and activities and uses shall be prohibited, unless the applicant demonstrates that:
    - i. The basic project purpose cannot reasonably be accommodated on another site in the general region and successfully avoid, or result in less adverse impacts on, a wetland or its buffer;
    - ii. There are no feasible alternative designs of the project as proposed that would avoid, or result in less of an adverse impact on, a wetlands or its buffer, such as a reduction in the size, scope, configuration, or density of the project.

3. Category IV Wetlands. Activities and uses that result in unavoidable and necessary impacts may be permitted in Category IV wetlands and associated buffers in accordance with an approved critical areas report and mitigation plan, and only if the proposed activity is the only reasonable alternative that will accomplish the applicant's objective.

4. Property Access. Any wetland may be altered with the least possible impact and to the minimum extent necessary to gain access to developable property when no other alternative access exists. Alteration proposals shall be subject to city review and shall require compensation pursuant to a mitigation plan (see MMC 20.05.050, Applicability, exemptions, and exceptions).

5. Storm Water Management. Storm water management facilities are not allowed in wetlands. Storm water management facilities, limited to storm water dispersion outfall and bioswales, may be allowed within the outer twenty-five percent of the buffer of Category III and IV wetlands only; provided, that:

a. No other location is feasible; and

b. The location of such facilities will not degrade the functions and values of the wetland.

6. Trails. Public and private trails may be allowed within all buffers where it can be demonstrated in a critical areas report that the wetland and wetland buffer functions and values will not be degraded by trail construction or use. Trail planning, construction, and maintenance shall adhere to the following criteria:

a. Trail alignment shall follow a path beyond a distance from the wetland edge equal to seventy-five percent of the buffer width except as needed to access viewing platforms. Trails may be placed on existing levees or railroad grades within these limits;

b. Trails shall be constructed of pervious materials. The trail surface shall meet all other requirements, including water quality standards set forth in the Washington State Department of Ecology Storm Water Management Manual for Western Washington, [August 2001-2012](#) or as revised;

c. Trail alignment shall avoid trees in excess of six inches in diameter of any tree trunk at a height of four and one-half feet above the ground on the upslope side of the tree. [Unavoidable impacts to trees shall be mitigated at a 3:1 replacement ratio;](#)

d. Trail construction and maintenance shall follow the U.S. Forest Service Trails Management Handbook (FSH 2309.18, June 1987) and Standard Specifications for Construction of Trails (EM-7720-102, June 1984 or as revised);

e. Access trails to viewing platforms within the wetland may be provided. Trail access and platforms shall be aligned and constructed to minimize disturbance to valuable functions of the wetland or its buffer and still provide enjoyment of the resource;

f. Buffer widths shall be increased, where possible, equal to the width of the trail corridor, including disturbed areas; and

g. Equestrian trails shall provide measures to assure that runoff from the trail does not directly discharge to the wetland.

7. Utilities. Public and private utility corridors may be allowed within wetland buffers for Category II, III, and IV wetlands when no lesser impacting alternative alignment is feasible, and wetland and wetland buffer functions and values will not be degraded. Utilities,

whenever possible, shall be constructed in existing, improved roads, drivable surface or shoulder, subject to compliance with road and maintenance BMPs, or within an existing utility corridor. Otherwise, corridor alignment, construction, restoration and maintenance shall adhere to the following criteria:

- a. Corridor alignment shall follow a path beyond a distance from the wetland edge equal to seventy-five percent of the buffer width, except when crossing a Category IV wetland and its buffer;
- b. Corridor construction and maintenance shall maintain and protect the hydrologic and hydraulic functions of the wetland and the buffer;
- c. Corridors shall be fully revegetated with appropriate native vegetation upon completion of construction; and
- d. Utilities requiring maintenance roads shall be prohibited in wetland buffers unless the following criteria are met:
  - i. There are no lesser impacting alternatives;
  - ii. Any required maintenance roads shall be no greater than fifteen feet wide. Roads shall closely approximate the location of the utility to minimize disturbances; and
  - iii. The maintenance road shall be constructed of pervious materials and designed to maintain and protect the hydrologic functions of the wetland and its buffer.

B. Best Available Science. Any approval of alterations of impacts to a wetland or its buffer shall be supported by the best available science.

C. Native Growth Protection Easement/Critical Area Tract. As part of the implementation of approved development applications and alterations, wetlands and their buffers that remain undeveloped pursuant to the critical areas regulations, in accordance with MMC [20.05.070](#), Protection and mitigation measures, shall be designated as native growth protection easements (NGPE). Any wetland and its associated buffer created as compensation for approved alterations shall also be designated as an NGPE.

When the subject development is a formal subdivision, short subdivision (short plat), or planned residential development (PRD), wetlands and their buffers shall be placed in a critical areas tract instead of an NGPE, as described in MMC [20.05.070](#), Protection and mitigation measures.

D. Minimum Buffers. The following buffers are minimum requirements. All buffers are measured from the wetland's edge as surveyed in the field:

1. Category I wetlands shall have a two-hundred-foot (200') undisturbed buffer.
2. Category II wetlands shall have a one-hundred and fifty-foot (150') undisturbed buffer.
3. Category III wetlands shall have a ~~seventy-five~~ one-hundred-foot (100') undisturbed buffer.
4. Category IV wetlands shall have a fifty-foot (50') undisturbed buffer.

5. Any wetland created as compensation for approved wetland alteration shall have the minimum buffer required for the new classification of the created wetland.

6. Uninventoried wetlands shall be assigned a rating based on the wetland report and field verification, and the appropriate buffer shall apply.

E. Additional Buffers. The city may require increased buffer sizes as necessary to protect wetlands when either the wetland is particularly sensitive 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 wetland is in a critical drainage basin;
3. The wetland is a critical fish habitat for spawning or rearing as determined by the Washington Department of Fish and Wildlife;
4. The wetland serves an important groundwater recharge area as determined by a groundwater management plan;
5. The wetland acts as habitat for endangered, threatened, rare, sensitive, or monitor species;
6. The land adjacent to the wetland and its associated buffer and included in the development proposal is classified as an erosion hazard area; or
7. A trail or utility corridor in excess of ten percent of the buffer width is proposed for inclusion in the buffer.

F. Buffer Reduction. The city may reduce up to twenty-five percent of the wetland buffer requirement only if sufficient information is available showing:

1. The applicant has demonstrated that mitigation sequencing efforts have been appropriately utilized: avoid, minimize, and lastly mitigate;
2. The proposed buffer reduction shall be accompanied by a mitigation plan that includes enhancement of the reduced buffer area;
3. The reduction will not adversely affect water quality;
4. The reduction will not destroy, damage, or disrupt a significant habitat area; and
5. The reduction is necessary for reasonable development of the subject property.

G. Buffer Averaging. The city will consider the allowance of wetland buffer averaging only when the buffer area width after averaging will not adversely impact the critical area and/or buffer functions and values. At a minimum, any proposed buffer averaging must also meet the following criteria:

1. The buffer area after averaging is no less than that which would be contained within the standard buffer; and
2. The buffer width shall not be reduced by more than twenty-five percent at any one point as a result of the buffer averaging.

H. Additional Wetland Mitigation Requirements. No net loss of wetland functions and values shall occur as a result of the overall project. If a wetland alteration is allowed, then the associated impacts will be considered unavoidable and the following mitigation measures to minimize and reduce wetland impacts shall be required, in addition to the requirements in MMC [20.05.070](#), Protection and mitigation measures.

1. Restoration/rehabilitation is required when a wetland (or stream) or its buffers has been altered on the site in violation of city regulations prior to development approval and as a consequence its functions and values have been degraded. Restoration is also required when the alteration occurs in violation of city regulations during the construction of an approved development proposal. At a minimum, all impacted areas shall be restored to their previous condition pursuant to an approved mitigation plan.
2. Restoration/rehabilitation is required when a wetland (or stream) or its buffers will be temporarily altered during the construction of an approved development proposal. At a minimum, all impacted areas shall be restored to their previous condition pursuant to an approved mitigation plan.
3. Compensation. The overall aim of compensation is no net loss of wetland and/or buffer functions on a development site. Compensation includes replacement or enhancement of wetlands and/or buffer (stream) depending on the scope of the approved alteration and what is needed to maintain or improve wetland and/or buffer functions. Compensation for approved wetland and/or buffer alterations shall meet the following minimum performance standards and shall occur pursuant to an approved mitigation plan.
4. a. Mitigation shall achieve equivalent or greater biological functions. Mitigation plans shall be consistent with the state Department of Ecology ~~Guidelines for Developing Freshwater Wetland Mitigation Plans and Proposals, 1994~~ [Wetland Mitigation in Washington State, Parts 1 and 2 \(Publications #06-06-011a & b, 2006\)](#), as revised.
  - b. Preference of Mitigation Actions. Mitigation actions that require compensation shall occur in the following order of preference:
    - i. Restoring wetlands on upland sites that were formerly wetlands.
    - ii. Creating wetlands on disturbed upland sites such as those with vegetation cover consisting primarily of exotic introduced species.
    - iii. Enhancing significantly degraded wetlands only after a minimum one-to-one replacement ratio has been met.
  - c. On-Site and In-Kind. Unless otherwise approved, all wetland impacts shall be compensated for through restoration or creation of replacement wetlands that are in-kind, on-site, and of similar or better wetland category. Mitigation shall be timed prior to

or concurrent with the approved alteration and shall have a high probability of success. ~~The following ratios shall apply to wetland restoration and creation for mitigation:~~

- ~~i. Category I on a six-to-one area basis with equal or greater functions and values.~~
- ~~ii. Category II on a three-to-one area basis with equal or greater functions and values.~~
- ~~iii. Category III on a two-to-one area basis with equal or greater functions and values.~~
- ~~iv. Category IV on a one-and-one-half-to-one area basis with equal or greater functions and values.~~

**Wetland Mitigation Replacement Ratios**

<b><u>Category and Type of Wetland</u></b>	<b><u>Creation or Re-establishment</u></b>	<b><u>Rehabilitation</u></b>	<b><u>Enhancement</u></b>
<u>I (Bog and Wetlands of High Conservation Value)</u>	<u>Not considered possible</u>	<u>Case by case</u>	<u>Case by case</u>
<u>I (Mature Forested)</u>	<u>6:1</u>	<u>12:1</u>	<u>24:1</u>
<u>I (Based on functions)</u>	<u>4:1</u>	<u>8:1</u>	<u>16:1</u>
<u>II</u>	<u>3:1</u>	<u>6:1</u>	<u>12:1</u>
<u>III</u>	<u>2:1</u>	<u>4:1</u>	<u>8:1</u>
<u>IV</u>	<u>1.5:1</u>	<u>3:1</u>	<u>6:1</u>

d. Off-Site and In-Kind. The city may consider and approve off-site compensation where the applicant can demonstrate that equivalent or greater biological and hydrological functions and values will be achieved. The compensation may include restoration, creation, or enhancement of wetland or streams so long as the project is within the same subdrainage basin. The compensation formulas required in subsection (H)(4)(c) of this section shall apply for off-site compensation as well.

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

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

- ii. A significant period will elapse between impact and replication of wetland functions; or
  - iii. The impact was unauthorized.
- f. Decreased Replacement Ratios. The city may decrease the ratios required in subsection (H)(4)(c) of this section when all the following criteria are met:
- i. A minimum replacement ratio of one to one will be maintained;
  - ii. Documentation by a qualified wetlands specialist demonstrates that the proposed mitigation actions have a very high rate of success;
  - iii. Documentation by a qualified wetlands specialist demonstrates that the proposed mitigation actions will provide functions and values that are significantly greater than the wetland being impacted; and
  - iv. The proposed mitigation actions are conducted in advance of the impact and have been shown to be successful.
- g. Credit/Debit Method. To more fully protect functions and values, and as an alternative to the mitigation ratios found in the joint guidance "Wetland Mitigation in Washington State Parts I and II" (Ecology Publication #06-06-011a-b, Olympia, WA, March, 2006), the administrator may allow mitigation based on the "credit/debit" method developed by the Department of Ecology in "Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final Report," (Ecology Publication #10-06-011, Olympia, WA, March 2012), or as revised).
- h. ~~g~~ Wetland Enhancement as Mitigation.
- i. Impacts to wetlands may be mitigated by enhancement of existing significantly degraded wetlands only after a one-to-one minimum acreage replacement ratio has been satisfied. Applicants proposing to enhance wetlands must produce a critical areas report that identifies how enhancement will increase the functions and values of the degraded wetland and how this increase will adequately mitigate for the loss of wetland function at the impact site.
  - ii. At a minimum, enhancement acreage shall be ~~double~~ four times the acreage required for creation acreage under subsection (H)(4)(c) of this section. The ratios shall be greater than ~~double~~ four times the required acreage when the enhancement proposal would result in minimal gain in the performance of wetland functions currently provided in the wetland.
  - iii. Mitigation Plans for Alterations to Wetlands and Wetland Buffers. Mitigation plans shall be consistent with the state Department of Ecology ~~Guidelines for Developing Freshwater Wetland Mitigation Plan and Proposals, 1994 Wetland Mitigation in Washington State, Parts 1 and 2 (Publications #06-06-011a & b, 2006),~~ or as revised. At a minimum, the following components shall be included in a complete mitigation plan:

(A) Baseline Information. Provide existing conditions information for both the impacted critical area and the proposed mitigation site as described in MMC [20.05.060\(C\)](#), General Critical Area Report Requirements and [20.05.060\(D\)](#), Additional Wetland Report Requirements.

(B) Environmental Goals and Objectives. The mitigation plan shall include a written report identifying environmental goals and objectives of the compensation proposed and include:

(1) A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the compensation measures, including the site selection criteria, identification of compensation goals, identification of resource functions, and dates for beginning and completing site compensation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area; and

(2) A review of the best available science supporting the proposed mitigation.

(C) Performance Standards. The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this chapter have been met. They may include water quality standards, species richness and diversity targets, habitat diversity indices, or other ecological, geological, or hydrological criteria.

(D) Detailed Construction Plan. These are the written specifications and descriptions of mitigation techniques. This plan should include the proposed construction sequencing, grading and excavation details, erosion and sedimentation control features, a native planting plan, and detailed site diagrams and any other drawings appropriate to show construction techniques or anticipated final outcome.

(E) Monitoring and/or Evaluation Program. The mitigation plan shall include a program for monitoring construction of the compensation project, and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring, and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a minimum of five years, ten years when establishing woody vegetation or a period necessary to establish that performance standards have been met.

(F) Contingency Plan. This section identifies potential courses of action, and any corrective measures to be taken when monitoring or evaluation indicates projected performance standards have not been met.

[i. Wetland Mitigation Banks. An alternative to on-site permittee-responsible mitigation involves use of wetland mitigation banks.](#)

i. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:

(A) The bank is certified under state rules;

(B) The City determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and

(C) The proposed use of credits is consistent with the terms and conditions of the certified bank instrument.

ii. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the certified bank instrument.

iii. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the certified bank instrument. In some cases, the service area of the bank may include portions of more than one adjacent drainage basin for specific wetland functions.

i. In-Lieu Fee. To aid in the implementation of off-site mitigation, the City may develop an in-lieu fee program. This program shall be developed and approved through a public process and be consistent with federal rules, state policy on in-lieu fee mitigation, and state water quality regulations. An approved in-lieu-fee program sells compensatory mitigation credits to permittees whose obligation to provide compensatory mitigation is then transferred to the in-lieu program sponsor, a governmental or non-profit natural resource management entity. Credits from an approved in-lieu-fee program may be used when the conditions below apply:

i. The approval authority determines that it would provide environmentally appropriate compensation for the proposed impacts.

ii. The mitigation will occur on a site identified using the site selection and prioritization process in the approved in-lieu-fee program instrument.

iii. The proposed use of credits is consistent with the terms and conditions of the approved in-lieu-fee program instrument.

iv. Land acquisition and initial physical and biological improvements of the mitigation site must be completed within three years of the credit sale.

v. Projects using in-lieu-fee credits shall have debits associated with the proposed impacts calculated by the applicant's qualified wetland scientist using the method consistent with the credit assessment method specified in the approved instrument for the in-lieu-fee program.

vi. Credits from an approved in-lieu-fee program may be used to compensate for impacts located within the service area specified in the approved in-lieu-fee instrument.

**Section 6. Transmittal to the Department of Commerce.** Pursuant to RCW 36.70A.106, this ordinance shall be transmitted to the Washington State Department of Commerce.

**Section 7. 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 or enforceability of the remaining portions of this ordinance or its application to other persons or circumstances.

**Section 8. Effective Date.** This ordinance shall be in full force and effect five (5) days from and after its passage and approval and publication as required by law.

PASSED by the City Council and APPROVED by the Mayor of the City of Monroe, at a regular meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

First Reading:  
Final Reading/Adoption:  
Published:  
Effective:

CITY OF MONROE, WASHINGTON:

\_\_\_\_\_  
Geoffrey Thomas, Mayor

(SEAL)

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Elizabeth M. Smoot, MMC, City Clerk

\_\_\_\_\_  
J. Zachary Lell, City Attorney