



City of Monroe
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Planning Commission Agenda

Monday, November 14, 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

October 24, 2016

Documents:

[October 24 2016 DRAFT minutes do edits.pdf](#)

PUBLIC HEARING

NONE

OLD BUSINESS

1. Downtown Code Amendments
2. Critical Areas Ordinance

Documents:

[A. Old Business AB Downtown Code Amendment 11 14 16.pdf](#)
[A1. New Business ATT 1 Draft Monroe CTR Ordinance.pdf](#)
[B. Old Business AB CAO Amendments.pdf](#)
[B1. Old Business Attach 1 CAO Amendments.pdf](#)
[B2. Old Business Attach 2 Ecology comments-CAO update 090616.pdf](#)

NEW BUSINESS

Commute Trip Reduction Code Amendments

Documents:

[New Business AB CTR Code Amendments \(SR\).pdf](#)
[A. New Business ATT 1 Draft Monroe CTR Ordinance.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.
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**CITY OF MONROE
PLANNING COMMISSION MINUTES
Monday, October 24, 2016**

The regular meeting of the Monroe Planning Commission was held on **Monday, October 24, 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 7:02 p.m.

ROLL CALL

Secretary Stephanie Johnson called the roll.

Commissioners Present: **Chair Kristiansen**, Commissioner Duerksen, Commissioner Jensen, Commissioner Stanger, and Commissioner Bull

Commissioners Absent: Vice Chair Tuttle and Commissioner Fisher (both excused)

Staff Present: Community Development Director David Osaki, Public Works Director Brad Feilberg, and Planning Commission Secretary Stephanie Johnson

COMMENTS FROM CITIZENS

None

APPROVAL OF MINUTES

- October 10, 2016 – **Commissioner Bull** moved to accept the October 10, 2016 Planning Commission Meeting minutes as submitted. **Commissioner Jensen** seconded. Commissioner Duerksen abstained because she was absent for the October 10, 2016 meeting (excused). Motion carried **4/0**.

PUBLIC HEARING

1. CA2016-04 - Low Impact Development and other Miscellaneous Code Amendments (Continued from October 10, 2016).

Director Feilberg explained that the SEPA public comment period has concluded, and that the SEPA appeal period had passed with no comments or appeals from citizens or public agencies. He provided the commissioners with a “Staff Report and Recommendation” handout. Staff recommends that the Planning Commission forward a recommendation to the City Council to approve CA2016-04 Low Impact Development, as the proposal complies with the Monroe Municipal Code, the City of Monroe 2015-2035 Comprehensive Plan, and other State and Federal Regulations.

Chair Kristiansen opened the deliberation portion of the public hearing.

Commissioner Duerksen moved to close the public hearing, seconded by **Commissioner Jensen**. Carried **5/0**.

Commissioner Jensen moved to accept the Staff recommendation to recommend CA2016-04 - Low Impact Development and other Miscellaneous Code Amendments to the Monroe City Council, seconded by **Commissioner Stanger**. Carried **5/0**.

OLD BUSINESS

1. Code Amendments – Downtown

Director Osaki continued discussion from the September 26, 2016 Planning Commission meeting regarding proposed code amendments to MMC Chapter 18.12 Downtown Commercial Zone, specifically focusing on density and height requirements for the Downtown Residential and Borlin Park (East Downtown) neighborhoods.

Director Osaki summarized that, at the Planning Commission's September 26, 2016 meeting, the Commission direction was to increase density within the Borlin Park (East Downtown) neighborhood marginally (by 2-4 units per acre) as long as the buildings are required to use upper story setbacks.

At the September 26, 2016 meeting the Planning Commission also considered leaving the maximum allowable density in the Downtown Residential district "as-is" for now at 11 dwelling units per acre (to incentivize other areas in the Downtown to develop first) as well as an alternative of increasing the density up to 16 units per acre in the future. Leaving the "Downtown Residential" district density "as is" for now was the direction.

The current proposed amendment provides for the following:

- Base Density - 20 units per acre
- Four story buildings w/ fourth story stepped back at least 10 feet - 22 units per acre.
- Five story building w/ fourth and five stories stepped back at least 10 feet - 24 dwelling units per acre

Under the current code, additional height over 35 feet is allowed up to 55 feet, provided the building is mixed use. This mixed use requirement is not proposed for change.

Director Osaki explained that the current proposal might give developers an option of not meeting setback requirement if they only develop at a 20 unit/acre density. He

suggested requiring setbacks for any structure taller than 35 feet. **Director Osaki** asked the commission how they might incentivize developers to increase density. The commissioners speculated that the current proposal may not be enough and discussed increasing the units per acre even more, in the 24-28 units per acre range.

Commissioner Jensen asked if structured parking would be allowed in the downtown zone. **Director Osaki** said it would be, and that it would actually be a good sign for downtown if this happened. **Commissioner Jensen** inquired if it would be allowed for a developer to use part of their parking for their development as a paid accessory parking area. **Director Osaki** said it's not an unusual concept, but it would require a conditional use permit.

Director Osaki said he would continue discussion regarding MMC 18.12 at the next planning commission meeting.

NEW BUSINESS

1. Future Planning Commission Agenda Items - Format

Director Osaki presented a draft format to identify future Planning Commission meeting agendas items that can be included in Planning Commission packets.

Commissioner Jensen suggested setting a specific forecast limit, i.e. 2-3 months. Also, he suggested to clearly identify special vs. regular meetings and that public hearings be made more clear though, perhaps, being in bold print.

DISCUSSION BY COMMISSION AND STAFF

Director Osaki responded to a Commission inquiry regarding plans to finish the Sign Code amendments. He told the Commission that he will provide the commissioners supplemental information about a recent Supreme Court case regarding sign code regulations (Documents mailed 10/27/16).

Director Osaki suggested that there only be one meeting in December (no meeting 12/26/16).

Director Osaki mentioned that a juror from the American Planning Association-Planning Association of Washington Joint Awards program will be scheduled to visit a future City Council meeting to honor the City for its work on the Comprehensive Plan update. Staff will let the Planning Commission know when that takes place. Date to be announced.

Director Osaki stated that the proposed 2017 budget has funds to contract a consultant to update the zoning code.

Director Osaki announced Senior Planner Kristi Kyle's resignation at the end of October to become the new Planning Director at the City of Sultan.

Commissioner Duerksen asked about the old Del's property. **Director Osaki** reminded her that the L.I.D. code amendments that the Planning Commission has been discussing included an amendment to the land use table for the Rails and Roads neighborhood.

Commissioner Duerksen also mentioned that there is a sign flashing like a strobe light by Tuscano's that needs to be investigated.

Commissioner Bull inquired about the new permit software that Director Osaki mentioned at the October 10, 2016 meeting. Director Osaki said there are no plans for new permit software at this point in time. He said he would provide the Commission more information about mybuildingpermit.com, which involves several governments seeking efficiencies and consistencies in building permitting. This is especially helpful for customers that might do permitting activity in several jurisdictions. (Information mailed 10/27/16)

Chair Kristiansen mentioned that there is still not a STOP sign at the corner of 147th in the Industrial Park. **Director Osaki** said he would follow up with Director Feilberg.

ADJOURNMENT

Commissioner Duerksen moved to adjourn the **October 24, 2016** Planning Commission meeting. Seconded by **Commissioner Bull**. Motion carried **5/0** and the meeting was adjourned at **8:06 p.m.**

Bill Kristiansen
Chair

Stephanie Johnson
Planning Commission Secretary



MONROE PLANNING COMMISSION
Agenda Item Cover Sheet

TITLE:	Zoning Code - Amendments
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DATE:		CONTACT:	PRESENTER:	ITEM:
11/14/16		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, 09/12/2016, 09/26/2016, 10/24/2016, 11/14/2016

Public Hearing: None

Attachments: 1. MMC Chapter 18.12 Downtown Commercial Zone amendments

DESCRIPTION/BACKGROUND

At its October 24, 2016 meeting, the Planning Commission continued its discussion of the code amendments to MMC Chapter 18.12 Downtown Commercial Zone. The meeting’s discussion focused on density and height requirements for the Borlin Park (East Downtown) neighborhoods.

Presently, the maximum residential density in the Borlin Park (East Downtown) neighborhood is 20 units/acre. The City’s 20-year growth projection is that the population in the City limits will increase by about 4,500 people. Increasing density downtown is part of that strategy.

At the October 24, 2016 meeting, the Commission direction was to increase density within the Borlin Park (East Downtown) neighborhood as building height increased. Buildings are required to use upper story setbacks regardless of the density.

The attached downtown code amendments (***Attachment 1***) incorporate language reflecting the increase in density in the Borlin Park (East Downtown) Neighborhood. In general, the current proposed amendment provides for the following:

- Base Density - 20 units per acre
- Four story buildings - 24 units per acre.

- Five story building - 28 dwelling units per acre

Four and five story buildings must setback upper stories. Buildings less than four stories may be required to setback upper stories above the ground floor.

Under the current code, additional height over 35 feet is allowed up to 55 feet, provided the building is mixed use. This mixed use requirement is not proposed for change.

In addition to the issue of density in the Borlin Park (East Downtown) neighborhood, the Planning Commission expressed interest in reviewing the entire set of amendments to the Downtown Commercial zone at the November 14, 2016.

RECOMMENDED ACTION

Discussion.

ATTACHMENT 1

DRAFT

Chapter 18.88 COMMUTE TRIP REDUCTION (CTR)

Sections:

- 18.88.~~005~~–~~010~~ Purpose.
- 18.88.020 Administration.
- 18.88.~~010~~–~~030~~ Definitions.
- 18.88.~~020~~–~~040~~ CTR plan adoption by reference.
- 18.88.~~025~~–~~050~~ CTR goals.
- 18.88.~~030~~–~~060~~ Responsible city department.
- 18.88.~~040~~–~~070~~ Applicability.
- 18.88.~~050~~–~~080~~ Requirements for employers.
- 18.88.~~060~~–~~090~~ Record keeping.
- 18.88.~~070~~–~~100~~ Schedule and process for CTR reports.
- 18.88.~~090~~–~~110~~ Enforcement.
- 18.88.~~100~~–~~120~~ Exemptions and goal modifications.
- 18.88.~~110~~–~~130~~ Appeals.

18.88.~~005-010~~ Purpose.

The purpose of this chapter is to provide a method for compliance with the Washington State Commute Trip Reduction Law of 1991 (RCW 70.94.521 through ~~70.94.551~~70.94.555), and as amended in 2006 by the Commute Trip Reduction Efficiency Act. The Commute Trip Reduction Law was passed to reduce traffic congestion, air pollution, and dependency on fossil fuels through employer-based programs encouraging alternative commute methods to the single-occupancy vehicle. The Commute Trip Reduction Law shall not be used as a substitute for reviews of projects under other city requirements for compliance with the State Environmental Policy Act (SEPA).

18.88.020 Administration.

The Director of Community Development or their designee shall have the duty and responsibility to administer the provisions of this chapter with the authority to promulgate rules and regulations to implement and administer this chapter.

18.88.~~010-030~~ Definitions.

For the purpose of this chapter, the following definitions shall apply in the interpretation and enforcement of this chapter:

“Affected employee” means a full-time employee who begins his or her regular workday at a major employer work site between six a.m. and nine a.m. (inclusive) on two or more weekdays for at least twelve continuous months, ~~who is not an independent contractor, and who is scheduled to be employed on a continuous basis for fifty two weeks for an average of at least thirty five hours per week.~~ For the purpose of defining affected employees the following apply:

A. A full-time employee is a person other than an independent contractor, scheduled to be employed on a continuous basis for fifty-two weeks for an average of at least thirty-five hours per week.

B. The employee will only be counted at his or her primary worksite.

C. Seasonal agricultural employees, including seasonal employees of processors of agricultural products, are excluded from the count of affected employees.

“Affected urban growth area” means:

A. An urban growth area, designated pursuant to RCW [36.70A.110](#), whose boundaries contain a state highway segment exceeding the one hundred person per hours of delay threshold calculated by the Washington State Department of Transportation, and any contiguous urban growth areas; and

B. An urban growth area, designated pursuant to RCW [36.70A.110](#), containing a jurisdiction with a population over seventy thousand that adopted a commute trip reduction ordinance before the year 2000, and any contiguous urban growth areas; or

C. An urban growth area identified by the Washington Department of Transportation as listed in WAC [468-63-020\(2\)\(b\)](#).

“Alternative mode” means any means of commute transportation other than that in which the single-occupant motor vehicle is the dominant mode, including ~~telecommuting~~ ~~teleworking~~ and compressed work weeks if they result in reducing commute trips.

“Alternative work schedules” mean work schedules that allow employees to work their required hours outside of the traditional Monday to Friday, eight a.m. to five p.m. schedule. Programs such as compressed workweeks ~~that~~ eliminate work trips for affected employees are an example.

“Baseline data collection” means the collection of employee trip data at a major worksite to determine the non-drive alone trips and greenhouse gas emissions per employee at the worksite. The jurisdiction uses these measurements to develop commute trip reduction targets for the major employer. The baseline measurements must be implemented in a manner that meets the requirements and timeframe specified by the city.

“Base year” means the twelve-month period that commences when the ~~city~~ City of Monroe determines an employer is required to comply with the CTR law.

“Base year survey” or “baseline measurement” means the survey, during the base year, of employees at a major employer work site to determine the drive-alone rate and vehicle miles traveled per employee at the work site. The jurisdiction uses this measurement to develop commute trip reduction goals for the major employer. The baseline measurements must be implemented in a manner that meets the requirements specified by the city.

“Carpool” means a motor vehicle occupied by at least two people traveling together for their commute trip that results in the reduction of a minimum of one motor vehicle commute trip.

“City” means the ~~city~~ City of Monroe.

“Commuter trip reduction (CTR) plan” means the City of Monroe’s plan and ordinance to regulate and administer the CTR programs of a-major employers within its jurisdiction.

“Commuter trip vehicle miles traveled per employee (VMT)” means the sum of the individual commuter trip lengths in miles over a set period divided by the number of full-time employees.

“Commuter trips” means trips made from a worker’s home to a work site during the peak period of six a.m. to nine a.m. (inclusive) on weekdays.

“Commuter matching service” means a system that assists in matching commuters for the purpose of commuting together.

“Commuter” means a resident or employee in an affected urban growth area who is participating in the city’s commuter trip reduction program, including any growth and transportation and efficiency center programs, implemented to meet Monroe’s established targets.

“Compressed work week” means an alternative work schedule, in accordance with employer policy, that regularly allows a full-time employee to eliminate at least one workday every two weeks by working longer hours during the remaining days, resulting in fewer commuter trips by the employee. This definition is primarily intended to include weekly and biweekly arrangements, the most typical being four ten-hour days or eighty hours in nine days, but may also include other arrangements.

“CTR law” means the Commuter Trip Reduction Law passed by the Washington State legislature in 1991 (Chapter 202, Laws of 1991) and codified in RCW [70.94.521](#) through [70.94.551](#), and amended in 1997 and 2006, requiring each county containing an urban growth area, designated pursuant to RCW 36.70A.110, and each city within an urban growth area with a state highway segment exceeding the one hundred person hours of delay threshold calculated by the department of transportation, as well as those counties and cities located in any contiguous urban growth areas to adopt a commuter trip reduction plan and ordinance for major employers in the affected urban growth area, requiring counties of over one hundred fifty thousand residents, with one or more major employers, to implement a CTR ordinance and plan. All cities in such counties with one or more major employers are also required to adopt CTR ordinances and plans.

“CTR program” means an employer’s strategies to reduce affected employees’ SOV use and, VMT per employee, and greenhouse gas emissions.

“Custom bus/bus pool” means a commuter bus service arranged specifically to transport employees to work.

“Employer” means a sole proprietorship, partnership, corporation, unincorporated association, cooperative, joint venture, agency, department, district, or other individual or entity, whether public, nonprofit, or private, that employs workers.

“ETC” means employer transportation coordinator as required pursuant to RCW 70.94.531(3).

“Flex-time” is an employer policy allowing individual employees some flexibility in choosing the time, but not the number, of their working hours to facilitate the use of alternative modes.

“Full-time employee” means a person, other than an independent contractor, scheduled to be employed on a continuous basis for fifty-two weeks for an average of at least thirty-five hours per week on two or more weekdays per week.

“Goals” means a the established criteria for measuring effectiveness of employer programs as outlined in the City of Monroe’s CTR plan, purpose toward which efforts are directed.

“Good faith effort” means that an employer has met the minimum requirements identified in RCW [70.94.531](#) and this chapter, and is working collaboratively with the city/county to continue its existing CTR program or is developing and implementing program modifications likely to result in improvements to its CTR program over an agreed-upon length of time.

“Growth and transportation efficiency center (GTEC)” means a defined, compact, mixed-use urban center that contains jobs or housing and supports multiple modes of transportation. For the purpose of funding, a GTEC must meet minimum criteria established by the CTR Board under RCW [70.04.537](#)~~70.94.524~~, and must be certified by a regional transportation planning organization as established in RCW [47.80.020](#).

“Implementation” means active pursuit by an employer of the CTR goals of RCW [70.94.521](#) through [70.94.551](#)~~70.94.555~~ and this chapter, as evidenced by appointment of a transportation coordinator, distribution of information to employees regarding alternatives to SOV commuting, and commencement of other measures according to its approved CTR program and schedule.

“Jurisdiction’s base year measurement” means the proportion of single-occupant vehicle commute trips by CTR commuters and commute trip vehicle miles traveled per CTR commuter on which commute trip reduction targets for the local jurisdiction shall be based. The jurisdiction’s base year measurement, for those jurisdictions with an affected urban growth area as of March 1, ~~2007~~[2017](#), shall be determined based on employee surveys administered in the ~~2006~~[2016-2017](#) survey cycle. If complete employee survey data from the ~~2006~~[2016-2017](#) survey cycle is not available, then the base year measurement shall be calculated from the most recent and available set of complete employee survey data.

“Major employer” (~~formerly “affected employer”~~) means a private or public employer, including state agencies, that employs one hundred or more full-time employees at a single work site who begin their regular workday between six a.m. and nine a.m. on at least two weekdays for at least twelve continuous months.

“Major work site” (or “worksite”) means a building or group of buildings that is/are on physically contiguous parcels of land or on parcels of land separated solely by private or public roadways or rights-of-way, and at which there are one hundred or more full-time employees.

“Mode” means the means of transportation used by employees, such as single-occupant motor vehicle, rideshare vehicle (carpool, vanpool), transit, ferry, bicycle, walking, compressed work schedule and telecommutingteleworking.

“Notice” means written communication delivered via the United States Postal Service with receipt deemed accepted three days following the day on which the notice was deposited with the postal service unless the third day falls on a weekend or legal holiday in which case the notice is deemed accepted the day after the weekend or legal holiday. Emails and Facsimile (fax) transmissions are a temporary notices of action that must be followed by the original document via mail or delivery.

“Peak period” means the hours from six a.m. to nine a.m. (inclusive), Monday through Friday, except legal holidays.

“Peak period trip” means any employee trip that delivers the employee to begin his or her regular workday between six a.m. and nine a.m. (inclusive), Monday through Friday, except legal holidays.

“Person hours of delay” means the daily person hours of delay per mile in the peak period of six a.m. to nine a.m. (inclusive), as calculated using the best available methodology by the Washington State Department of Transportation.

“Proportion of single-occupant vehicle trips” or “SOV rate” means the number of commute trips made by single-occupant automobiles divided by the number of full-time employees.

“Single-occupant vehicle (SOV)” means a motor vehicle occupied by one employee for commute purposes, including a motorcycle. If there are other passengers occupying the motor vehicle, but the ages of these passengers are sixteen or under, the motor vehicle is still considered a “single-occupant vehicle” for measurement purposes.

“Single-occupant vehicle (SOV) trips” means commute trips made by affected employees in SOVs.

“Target” means a quantifiable or measurable value that is expressed as a desired level of performance, against which actual achievement can be compared in order to assess progress, such as increase in non-drive alone trips and reduction of greenhouse gas emissions.-

“TelecommutingTeleworking” means the use of telephones, computers, or other similar technology to permit an employee to work anywhere at any time from home, eliminating a commute trip, or to work from a work place closer to home, reducing the distance traveled in a commute trip by at least half.

“Transit” means a multiple-occupant vehicle operated on a for-hire, shared-ride basis, including bus, ferry, rail, shared-ride taxi, shuttle bus, or vanpool. A transit trip counts as zero vehicle trips.

“Transportation demand management (TDM)” means a broad range of strategies that are primarily intended to reduce and reshape demand on the transportation system.

“Transportation management organization (TMO)” means a group of employers or an association representing a group of employers in a defined geographic area. A TMO may represent employers within specific city limits or may have a sphere of influence that extends beyond city limits.

“Vanpool” means a vehicle occupied by from seven-five to fifteen people traveling together for their commute trip that results in the reduction of a minimum of one motor vehicle trip. A vanpool trip counts as zero vehicle trips.

“Voluntary employer worksite” means the physical location occupied by an employer that is voluntarily implementing a CTR program.

“Week” means a seven-day calendar period starting on Monday and continuing through Sunday.

“Weekday” means any day of the week except Saturday or Sunday.

“Writing,” “written,” or “in writing” means original signed and dated documents. Emails and Facsimile (fax) transmissions are a temporary notices of action that must be followed by the original signed and dated document via mail or delivery.

18.88.020-040 CTR plan adoption by reference.

The Monroe CTR plan, as approved and adopted in 2000, and updated in 2008 and 2017, is adopted wholly and incorporated herein by reference.

18.88.025-050 CTR goals.

The goals for reducing Monroe’s proportion of drive-alone vehicle trips and commute trip vehicle miles traveled per employee are established in the Monroe CTR plan. The city will set the individual work site goals for major employers based on how the work site can contribute to city’s overall goal established in the CTR plan.

18.88.030-060 Responsible city department.

The city-City of Monroe community-Community development-Development department is responsible for implementing this chapter, the CTR plan, and the Monroe CTR program, and should be identified together with any authority necessary to carry out such responsibilities such as rule-making or certain administrative decisions.

18.88.040-070 Applicability.

The provisions of this chapter shall apply to any major employers or voluntary work sites within the corporate limits of the city-City of Monroe.

A. Notification of Applicability.

1. In addition to Monroe’s established public notification for adoption of an ordinance, a notice of availability of a summary of this chapter, a notice of the requirements and criteria for major employers and voluntary work sites to comply with this chapter, and subsequent revisions shall be published at least once in Monroe’s official newspaper not more than thirty days after passage of the ordinance codified in this chapter, or revisions.
2. Major employers and voluntary work sites located in Monroe are to receive written notification that they are subject to this chapter. Such notice shall be addressed to the company’s chief executive officer, senior official, or CTR manager at the work site. Such notification shall provide ninety days for the major employer to perform a baseline survey. After the results of the baseline survey are provided to the major employer, they have ninety days to submit a CTR program to the city.

3. Major employers and voluntary work sites that, for whatever reason, do not receive notice within thirty days of passage of the ordinance codified in this chapter and are either notified or identify themselves to the city within ninety days of the passage of the ordinance will be granted an extension to assure up to ninety days within which to perform a baseline survey. After the results of the baseline survey are provided to the major employer, they have ninety days to submit a CTR program to the city.

4. Major employers that have not been identified or do not identify themselves within ninety days of the passage of the ordinance, do not complete a baseline survey within ninety days, or do not submit a CTR program within one hundred eighty days are in violation of this chapter.

5. If a major employer or voluntary work site has already performed a baseline survey, the major employer or voluntary work site is not required to perform another survey and is required to submit a CTR plan to the city within 90 days.

B. New Major Employers and Voluntary Work Sites.

1. Employers that meet the definition of “a major employer” in this chapter must identify themselves to the city within ninety days of either moving into the boundaries of Monroe or growing in employment at a work site to one hundred or more affected employees. Such employers shall be given ninety days to complete a baseline survey, and an additional ninety days to submit a CTR program once the baseline survey results are given to the employer. The CTR program will be developed in consultation with the city and implemented not more than ninety days after the program’s approval. Employers who do not implement an approved CTR program according to this section are in violation of this chapter.

2. Employers that do not identify themselves within ninety days are in violation of this chapter.

3. New major employers shall have four years from the city’s acceptance of the program to meet the CTR reduction goals as stated in the city’s CTR plan.

C. Change in Status as a Major Employer. Any of the following changes in an employer’s status will change the employer’s CTR program requirements:

1. If an employer initially designated as major employer no longer employs one hundred or more affected employees and expects not to employ one hundred or more affected employees for the next twelve months, that employer is no longer a major employer. It is the responsibility of the employer to notify the city that it is no longer an employer.

2. If the same employer returns to the level of one hundred or more affected employees within the same twelve months, that employer will be considered a major employer for the entire twelve months and will be subject to the same program requirements as other major employers.

3. If the same employer returns to the level of one hundred or more affected employees twelve or more months after its change in status to an unaffected employer, that employer shall be treated as a new major employer and will be subject to the same program requirements as other new major employers.

18.88.050-080 Requirements for employers.

Major employers and voluntary work sites are required to make a good faith effort, as defined in RCW [70.94.534\(2\)](#) and this chapter, to develop and implement a CTR program that will encourage their employees to reduce drive-alone commute trips and commute trip vehicle miles traveled per employee. The employer shall submit a description of its program to city and provide an annual progress report to city on employee commuting and progress toward meeting the SOV goals and targets. The CTR program must include the mandatory elements as described below.

A. CTR Program Description Requirements. The CTR program description presents the strategies to be undertaken by an employer to achieve the program goals and targets stated in the city's CTR plan~~commute trip reduction goals. The goals are stated in the city's CTR plan.~~ Employers are encouraged to consider innovative strategies and combine program elements in a manner that will best suit their location, site characteristics, business type, and employees' commuting needs. Employers are further encouraged to cooperate with each other and to form or use transportation management organizations in developing and implementing CTR programs.

At a minimum, the employer's description must include:

1. General description of the employment site location, transportation characteristics, and surrounding services, including unique conditions experienced by the employer or its employees;
2. Number of employees affected by the CTR program;
3. Documentation of compliance with the mandatory CTR program elements ~~(as described in subsection (B) of this section)~~;
4. Description of the additional elements included in the CTR program ~~(as described in subsection (B) of this section)~~; and
5. Schedule of implementation, assignment of responsibilities, and commitment to provide appropriate resources.

B. Mandatory Program Elements. Each employer's CTR program shall include the following mandatory elements:

1. Employee Transportation Coordinator (ETC). The employer shall designate an on-site transportation coordinator to administer the CTR program. The coordinator's and/or designee's name, location, and ~~telephone number~~contact information must be displayed prominently at each affected work site. ETCs shall be trained in CTR program development and administration through a program approved by the city. The ETC shall attend annual ETC training and a minimum of six hours of other training or network meetings annually, or as organized by the city. The coordinator shall oversee all elements of the employer's CTR program and act as liaison between the employer and the city. The objective is to have an effective transportation coordinator presence at each work site; a major employer with multiple sites may have one on-site transportation coordinator for all sites.
2. Information Distribution. Information about alternatives to drive-alone commuting shall be provided to employees at least twice a year. Each employer's program description and annual or

biannual report must ~~identify~~ report the information to be distributed and the method of distribution.

3. Annual or Biannual Progress Report. The CTR program must include an annual or biannual review of employee commuting and progress and good faith efforts toward meeting the goals and targets as outlined in the CTR plan. ~~SOV and VMT reduction goals.~~ Determination of annual or biannual reporting requirement is dependent on work site commute trip reduction performance and the city will advise the major employer of required report frequency. Major employers shall file an annual or biannual progress report with the city in accordance with the format established by this chapter and consistent with the CTR Task Force Guidelines. The report shall describe each of the CTR measures that were in effect for the previous year(s), the results of any commuter surveys undertaken during the year(s), and the number of employees participating in CTR programs. Within the report, the employer should evaluate the effectiveness of the CTR program and, if necessary, propose modifications to achieve the CTR goals and targets. Survey information or approved alternative information must be provided every two years after implementation begins. The employer should contact the city for the format of the report.

4. Biannual Survey or Measurement. In addition to the specific program baseline measurement, employers shall conduct a program data evaluation as a means of determining work site progress toward meeting CTR goals. As part of the program evaluation, the employer shall distribute and collect commute trip reduction program employee questionnaires (surveys) at least once every two years, and achieve a seventy percent response rate from employees at the work site.

5. Annual Worksite Promotion of Employer CTR Program. Major employers will hold at least one annual transportation fair or equivalent promotion, which is available to all employees at each major worksite.

6. ETC Training. ETCs will be required to attend an ETC basic training session within six months of appointment.

7. Employer Notification. Employers will be required to notify the city or designee when there are proposed changes to their CTR program, changes in ETC or contact information, and/or changes in number of employees at the worksite.

8. ETC Networking/Advanced Training. ETCs will be required to attend at least six hours of networking or advanced training per year. Training and networking sessions may include marketing CTR programs to employees, trip planning, ridesharing, joint promotions and networking meetings.

59. Additional Program Elements. In addition to the specific program elements described above, the employer's CTR program shall include additional elements as needed to meet CTR goals and targets. Elements may include, but are not limited to, one or more of the following:

- a. Provision of preferential parking or reduced parking charges, or both, for high-occupancy vehicles;
- b. Instituting or increasing parking charges for SOVs;

- c. Provision of commuter ride matching services to facilitate employee ride-sharing for commute trips;
- d. Provision of subsidies for transit fares;
- e. Provision of vans for vanpools;
- f. Provision of subsidies for carpools or vanpools;
- g. Permitting the use of the employer's vehicles for carpooling or vanpooling;
- h. Permitting flexible work schedules to facilitate employees' use of transit, carpools, or vanpools;
- i. Cooperation with transportation providers to provide additional regular or express service to the work site;
- j. Construction of special loading and unloading facilities for transit, carpool, and vanpool users;
- k. Provision of bicycle parking facilities, lockers, changing areas, and showers for employees who bicycle or walk to work;
- l. Provision of a program of parking incentives such as a rebate for employees who do not use the parking facilities;
- m. Establishment of a program to permit employees to work part- or full-time at home or at an alternative work site closer to their homes;
- n. Establishment of a program of alternative work schedules, such as a compressed workweek, which reduces commuting;
- o. Promotional activities for ridesharing and transit, as well as fixed commuter information centers;
- p. Guaranteed rides in emergency situations for rideshare participants;
- q. Reduction of parking provided in accordance with the Monroe zoning code;
- r. Charging employees for parking, and/or the elimination of free parking; and
- s. Implementation of other measures designed to facilitate the use of high-occupancy vehicles, such as on-site day care facilities and emergency taxi services.

18.88.060-090 Record keeping.

Major employers shall include a list of the records they will keep as part of the CTR program they submit to the [city City](#) for approval. Records shall reflect the measures selected by the employer. For example,

an employer providing transit and vanpool pass subsidies shall keep monthly records of pass sales; employers with parking charges and reduced rates for carpools and vanpools shall record parking pass sales by type. Employers will maintain all records listed in their CTR program for a minimum of forty-eight months. The ~~city~~ City of Monroe and the employer shall agree on the record keeping requirements as part of the accepted CTR program.

18.88.070-100 Schedule and process for CTR reports.

A. CTR Program. Not more than ninety days after the adoption of the ordinance codified in this chapter, or within ninety days after an employer qualifies under the provisions of this chapter, the employer will be given ninety days to complete baseline data collection, and an additional ninety days to submit a CTR program once the baseline data results are given to the employer. The CTR program will be developed in consultation with the city and implemented not more than ninety days after the program's approval by the city. Employers who do not implement an approved CTR program according to this section are in violation of this chapter.

AB. Document Review. Monroe shall provide the employer with written notification if a CTR program is deemed unacceptable. The notification must give cause for any rejection. The employer shall have thirty days to resubmit a modified program. If the employer receives no written notification of extension of the review period of its CTR program or comments on the CTR program or annual report within ninety days of submission, the employer's program or annual report is deemed accepted. The city may extend the review period up to ninety days. The implementation date for the employer's CTR program will be extended an equivalent number of days.

BC. Schedule. Upon review of an employer's initial CTR program, Monroe shall establish the employer's annual reporting date, which shall not be less than twelve months from the day the program is submitted. Each year, on the employer's reporting date, the employer shall submit to Monroe its annual CTR report.

CD. Modification of CTR Program Elements. Any major employer may submit a request ~~that to~~ the city to allow for the modification of CTR program elements, other than the mandatory elements specified in this chapter, including record keeping requirements. Such request may be granted if one of the following conditions exists:

1. The employer can demonstrate that it would be unable to comply with the CTR program elements for reasons beyond the control of the employer, or
2. The employer can demonstrate that compliance with the program elements would constitute an undue hardship.

The city of Monroe may ask the employer to substitute a program element of similar trip reduction potential rather than grant the employer's request.

DE. Extensions. An employer may request additional time to submit a CTR program or CTR annual progress report, or to implement or modify a program. Such requests shall be made in writing at least thirty days before the due date for which the extension is being requested. Extensions not to exceed ninety days shall be considered for reasonable causes. The city shall grant or deny the employer's extension request in writing within ten working days of receipt of the extension request. If there is no

response issued to the employer, an extension is automatically granted for thirty days. Extensions shall not exempt an employer from any responsibility in meeting program goals and targets. Extensions granted due to delays or difficulties with any program element(s) shall not be cause for discontinuing or failing to implement other program elements. An employer's annual reporting date shall not be adjusted permanently as a result of these extensions. An employer's annual reporting date may be extended at the discretion of the ~~d~~Director of ~~C~~ommunity ~~D~~evelopment.

EE. Implementation of Employer's CTR Program. Unless extensions are granted, the employer shall implement its approved CTR program not more than ninety days after receiving written notice from the city that the program has been approved or with the expiration of the program review period without receiving notice from the city.

18.88.090-110 Enforcement.

A. Compliance. For purposes of this section, compliance shall mean fully implementing in good faith all provisions in an approved CTR program.

B. Program Modification Criteria. The following criteria for achieving goals and targets for non-drive alone trips and greenhouse gas emissions per employee VMT per employee and proportion of drive-alone trips shall be applied in determining requirements for employer CTR program modifications:

1. If an employer makes a good faith effort, as defined in RCW 70.94.534(2) and this chapter, and meets either or both goals, the employer has satisfied the objectives of the CTR plan and will not be required to modify its CTR program;
2. If an employer makes a good faith effort, as defined in RCW 70.94.534(2) and this chapter, but has not met or is not likely to meet the applicable drive-alone or VMT goal targets, the city/~~county~~ shall work collaboratively with the employer to make modifications to its CTR program. After agreeing on modifications, the employer shall submit a revised CTR program description to the city for approval within thirty days of reaching agreement;
3. If an employer fails to make a good faith effort as defined in RCW 70.94.534(2) and this chapter, and fails to meet the applicable drive-alone or VMT reduction goal targets, the city shall work collaboratively with the employer to identify modifications to the CTR program and shall direct the employer to revise its program within thirty days to incorporate the modifications. If a revised program is not accepted, the city will send written notice to that effect to the employer within thirty days and, if necessary, require the employer to attend a conference with program review staff for the purpose of reaching a consensus on the required program. A final decision on the required program will be issued in writing by the city within ten working days of the conference.

C. Violations. The following constitute violations if the deadlines established in this chapter are not met:

1. Failure to perform a baseline measurement within ninety days of written notification from the city that an employer qualifies as a major employer, including:
 - a. Employers notified or that have identified themselves to the city within ninety days of the ordinance codified in this chapter being adopted and that do not perform baseline data

collection consistent with the requirements specified by the city within ninety days from the notification or self-identification;

b. Employers not identified or self-identified within ninety days of the ordinance codified in this chapter being adopted and that do not perform baseline data collection consistent with the requirements specified by the city within ninety days from the adoption of the ordinance codified by this chapter;

c. A new major employer that does not perform baseline data collection consistent with the requirements specified by the city within ninety days of identification as a major employer;

2. Failure to develop and/or submit on time a complete CTR program.
3. Failure to implement an approved CTR program, unless the program elements that are carried out can be shown through quantifiable evidence to meet or exceed the goals and targets VMT and drive-alone goals as specified in this chapter;
4. Submission of false or fraudulent data in response to survey and data collection requirements;
5. Failure to make a good faith effort, as defined in RCW [70.94.534\(2\)](#) and this chapter; or
6. Failure to revise a CTR program as defined in RCW [70.94.534\(4\)](#) and this chapter.

D. Penalties.

1. No major employer or voluntary worksite with an approved CTR program that has made a good faith effort may be held liable for failure to reach the applicable goals and targets drive-alone or VMT goal;

~~2. Compliance with the requirements of this code is mandatory. The general penalties and remedies established in Chapter [21.70](#) MMC for such apply to any violation of this code. The enforcement actions authorized under this code shall be supplemental to those general penalties and remedies in Chapter [21.70](#) MMC.~~

~~32.~~ A major employer shall not be liable for civil penalties if failure to implement an element of a CTR program was the result of an inability to reach agreement with a certified collective bargaining agent under applicable laws where the issue was raised by the employer and pursued in good faith. Unionized employers shall be presumed to act in good faith compliance if they:

- a. Propose to a recognized union any provision of the employer's CTR program that is subject to bargaining as defined by the National Labor Relations Act; and
- b. Advise the union of the existence of the statute and the mandates of the CTR program approved by the city and advise the union that the proposal being made is necessary for compliance with state law (RCW [70.94.531](#)).

3. Compliance with the requirements of this code is mandatory. The general penalties and remedies established in Chapter 21.70 MMC for such apply to any violation of this code. The enforcement actions authorized under this code shall be supplemental to those general penalties and remedies in Chapter 21.70 MMC.

18.88.~~100-120~~ Exemptions and goal modifications.

A. Work Site Exemptions. A major employer may request the city to grant an exemption from all CTR program requirements or penalties for a particular work site. The employer must demonstrate that it would experience undue hardship in complying with the requirements of this chapter as a result of the characteristics of its business, its work force, or its location(s). An exemption may be granted if and only if the major employer demonstrates that it faces extraordinary circumstances, such as bankruptcy, and is unable to implement any measures any measures of the approved CTR plan~~that could reduce the proportion of drive-alone trips and VMT per employee~~. Exemptions may be granted by the city at any time based on written notice provided by the major employer. The notice should clearly explain the conditions for which the major employer is seeking an exemption from the requirements of the CTR program. The city shall review annually all employers receiving exemptions, and shall determine whether the exemption will be in effect during the following program year.

B. Employee Exemptions. Specific employees or groups of employees who are required to drive alone to work as a condition of employment may be exempted from a work site's CTR program. Exemptions may also be granted for employees who work variable shifts throughout the year and who do not rotate as a group to identical shifts. The city will use the criteria identified in the CTR Board Guidelines to assess the validity of employee exemption requests. The city shall review annually all employee exemption requests, and shall determine whether the exemption will be in effect during the following program year.

C. Modification of CTR Program Goals and Targets.

1. A major employer may request that the city modify its CTR program goals and/or targets. Such requests shall be filed in writing at least sixty days prior to the date the work site is required to submit its program description or annual report. The ~~goal~~ modification request must clearly explain why the work site is unable to achieve ~~each the~~ applicable goal and/or target. The work site must also demonstrate that it has implemented all of the elements contained in its approved CTR program.

2. The city will review and grant or deny requests for goal modifications in accordance with procedures and criteria identified in the CTR Board Guidelines.

3. An employer may not request a modification of the applicable goals and/or targets until one year after city approval of its initial program description or annual report.

18.88.~~110-130~~ Appeals.

Administrative interpretations and administrative approvals may be appealed, by a major employer, to the hearing examiner in accordance with MMC 21.60.010. The appeal must be in writing and state in a clear and concise manner the specific exceptions and objections to the administrative decision. The decision on the appeal shall constitute a final decision appealable to the city council.



MONROE PLANNING COMMISSION *Agenda Item Cover Sheet*

TITLE:	Code Amendment - Proposed Amendments to Critical Areas Regulations (Monroe Municipal Code Chapter 20.05)
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DATE:		CONTACT:	PRESENTER:	ITEM:
11/14/16		Shana Restall	Shana Restall	Old Business

Discussion: 11/14/2016

Public Hearing: None

- Attachments:**
1. Draft Ordinance – Proposed Amendments to Critical Areas Regulations (MMC Chapter 20.05)
 2. Comment Letter from Doug Gresham at the State of Washington Department of Ecology to the City of Monroe dated September 6, 2016

DESCRIPTION/BACKGROUND

On August 22, 2016, staff brought forward to the Planning Commission for discussion proposed amendments to Monroe Municipal Code Chapter 20.05 – Critical Areas. The amendments specifically focus on modifying the wetland provisions in Chapter 20.05. Staff worked with the Washington State Department of Ecology (DOE) to increase wetland protections within the City and ensure that proposed regulations were supported by Best Available Science (BAS). Review comments on a draft of the proposed ordinance were sent to the City from the DOE on November 30, 2015. Changes were made to the draft ordinance, as requested by the DOE, including increasing the buffer widths associated with Category II and III wetlands.

The proposed amendments were transmitted to the Washington State Department of Commerce for state agency review in accordance with RCW 36.70A.106 on August 18, 2016. Expedited review (14 days rather than 60 days) was requested. On September 6, 2016, the Department of Commerce denied expedited review of the proposed amendments, as the DOE indicated that they would be commenting on the proposal. As expedited review was denied, the proposal was subject to a standard 60 day review by the state. The state review deadline was October 18, 2016.

A SEPA Determination of Non-Significance (DNS) was issued on the proposed amendments on August 23, 2016. The public comment period ended at 5:00 PM on September 7, 2016, with an appeal deadline of September 14, 2016. A comment letter from the DOE regarding the issuance of a DNS was received by the City on September 6, 2016. No additional comments were received. The comment letter from the DOE requested modifications to three sections of the MMC, as proposed: A) MMC 20.05.030 – Definition of Water Typing System; B) 20.05.080(D) – Minimum Buffers; and C) 20.05.080(F) – Buffer Reduction. In the interim since the City’s previous communication with the DOE in November 2015, the DOE formulated new recommendations for wetland protection, which were adopted in June 2016 in *Wetland Guidance for CAO Updates: Western Washington Version* (Publication No. 16-06-001). The DOE’s concerns are delineated below and accompanied by a staff response:

Code Citation	20.05.030 – Definitions.
Existing Text	“Water typing system” means how waters are classified according to WAC 222-16-031 : A. Type 1 Water. All waters, within their ordinary high water mark, 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...
Proposed Text	<i>No changes proposed to existing text</i>

Ecology Comments	We recommend adopting the water typing system in WAC 222-16-030 (Type S, Type F, etc.) rather than the current numeric typing system. This will provide consistency between the state system and neighboring jurisdictions.																				
Staff Response	Amendments proposed are limited to those affecting wetlands. The City is not modifying stream regulations at this point.																				
Code Citation	20.05.080(D) – Minimum Buffers.																				
Existing Text	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 undisturbed buffer. 2. Category II wetlands shall have a one-hundred-foot undisturbed buffer. 3. Category III wetlands shall have a seventy-five-foot undisturbed buffer. 4. Category IV wetlands shall have a fifty-foot undisturbed buffer...																				
Proposed Text	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...																				
Ecology Comments	The minimum buffer widths required for Category I through III wetlands are not consistent with BAS and the Wetland Guidance for CAO Updates: Western Washington Version. We recommend basing the buffer width on the habitat scores from the wetland rating system. Tables XX.1 and XX.3 in our guidance recommend buffer widths that is based on best available science.																				
Staff Response	The buffer widths provided in Table XX.1 assume mitigation and the creation of a wetland corridor, as discussed in Table XX.2. The buffers in Table XX.3 do not assume mitigation, and therefore, are wider. Here is a comparison of the recommended buffer widths and those that are proposed: <table border="1" data-bbox="289 863 1539 1024"> <thead> <tr> <th>Wetland Category</th> <th>Table XX.1 Standards</th> <th>Table XX.3 Standards</th> <th>City Proposed Buffers</th> </tr> </thead> <tbody> <tr> <td>Category I</td> <td>75 ft – 225 ft</td> <td>100 ft – 300 ft</td> <td>200 ft</td> </tr> <tr> <td>Category II</td> <td>75 ft – 225 ft</td> <td>100 ft – 300 ft</td> <td>150 ft</td> </tr> <tr> <td>Category III</td> <td>60 ft – 225 ft</td> <td>80 ft – 300 ft</td> <td>100 ft</td> </tr> <tr> <td>Category IV</td> <td>40 ft</td> <td>50 ft</td> <td>50 ft</td> </tr> </tbody> </table> The proposed buffers exceed the DOE's minimum requirements for all categories with or without mitigation. The City's proposal is supported by BAS.	Wetland Category	Table XX.1 Standards	Table XX.3 Standards	City Proposed Buffers	Category I	75 ft – 225 ft	100 ft – 300 ft	200 ft	Category II	75 ft – 225 ft	100 ft – 300 ft	150 ft	Category III	60 ft – 225 ft	80 ft – 300 ft	100 ft	Category IV	40 ft	50 ft	50 ft
Wetland Category	Table XX.1 Standards	Table XX.3 Standards	City Proposed Buffers																		
Category I	75 ft – 225 ft	100 ft – 300 ft	200 ft																		
Category II	75 ft – 225 ft	100 ft – 300 ft	150 ft																		
Category III	60 ft – 225 ft	80 ft – 300 ft	100 ft																		
Category IV	40 ft	50 ft	50 ft																		
Code Citation	20.05.080(F) – Buffer Reduction.																				
Existing Text	The city may reduce up to twenty-five percent of the wetland buffer requirement only if sufficient information is available showing...																				
Proposed Text	<i>No changes proposed to existing text</i>																				
Ecology Comments	Allowing a 25% reduction in the wetland buffer width is not consistent with BAS and the <i>Wetland Guidance for CAO Updates: Western Washington Version</i> . This is a high risk approach to wetland protection that we do not recommend.																				
Staff Response	Page 13 of "Wetland Guidance for CAO Updates" states the following, " <i>We recommend that a request for buffer averaging include a wetland report. The report should be prepared by a qualified professional describing the current functions of the wetland and its buffer and the measures that will be taken to ensure that there is no loss of wetland function due to the buffer averaging. The width of the buffer at any given point after averaging should be no smaller than 75% of the standard buffer.</i> " The proposed code language is not changing. A critical areas study as described in MMC 20.05.060 and prepared by a qualified professional is required for a buffer averaging request. Additionally, a maximum buffer reduction of 25% ensures that a minimum of 75% of the standard buffer width will be maintained.																				

Depending upon direction given by the Planning Commission, staff is anticipating scheduling a public hearing on the proposed amendments before the end of 2016. Additional information will be provided to the Commission at future meetings.

RECOMMENDED ACTION

Staff is providing a follow up to the August 22, 2016 Planning Commission briefing and requesting further discussion.

**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

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 August 23, 2016, with no appeals filed; and

WHEREAS, the City issued a Notice of Public Hearing on September 13, 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 October 10, 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

<u>Category and Type of Wetland</u>	<u>Creation or Re-establishment</u>	<u>Rehabilitation</u>	<u>Enhancement</u>
<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.

j. 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



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Avenue SE • Bellevue, Washington 98008-5452 • (425) 649-7000

September 6, 2016

Shana Restall, Senior Planner
City of Monroe Community Development Department
806 West Main Street
Monroe, WA 98272

RE: Proposed Amendments to Monroe Municipal Code (Chapter 20.05–Critical Areas)
File No.: SEPA2016-12

Dear Ms. Restall:

Thank you for providing the Washington Department of Ecology (Ecology) with an opportunity to comment on proposed amendments to the City of Monroe Municipal Code Chapter 20.05 (Critical Areas). This includes amendments to specific sections of the code (Chapter 20.05.030, 20.05.050, 20.05.060, 20.05.070, and 20.05.080) that mainly pertain to wetlands. The project submittal provided to Ecology included a determination of non-significance and SEPA environmental checklist. We respectfully ask you to consider the following comments during your deliberations and that you enter these comments into the record.

Ecology previously submitted comments on the critical areas ordinance on October 27, 2015, and there have been numerous exchanges by phone and email in the last year regarding this update. In general, these amendments to City of Monroe municipal code are consistent with best available science (BAS) and current Ecology guidance, such as *Wetland Guidance for CAO Updates: Western Washington Version* (Publication No. 16-06-001). This includes updating literature citations to reflect recent publications and adding new sections that clarify current policy guidance.

However, Ecology believes there are still several sections of the critical areas ordinance that will not adequately protect wetland functions in the City. I have summarized our comments in Table 1 below, which specifies which section of the municipal code we are referring to.

If you have any questions or would like to discuss my comments, please give me a call at (425) 649-7199 or send an email to Doug.Gresham@ecy.wa.gov.

Shana Restall
September 6, 2016
Page 2

Sincerely,

A handwritten signature in cursive script that reads "Doug Gresham". The signature is written in black ink and is positioned above the typed name and title.

Doug Gresham, PWS
Wetland Specialist
Shorelands and Environmental Assistance Program

DG:awp

Cc: Paul Anderson, Donna Buntten, Department of Ecology
Lynn Kohn, Department of Commerce

Table 1. Summary of Ecology Comments on City of Monroe Municipal Code Chapter 20.05.

Page	Code Citation	General Topic	Comment
10	20.05.030	Definition of Water Typing System	We recommend adopting the water typing system in WAC 222-16-030 (Type S, Type F, etc.) rather than the current numeric typing system. This will provide consistency between the state system and neighboring jurisdictions.
21	20.05.080.D	Minimum Buffers	The minimum buffer widths required for Category I through III wetlands are not consistent with BAS and the <i>Wetland Guidance for CAO Updates: Western Washington Version</i> . We recommend basing the buffer width on the habitat scores from the wetland rating system. Tables XX.1 and XX.3 in our guidance recommend buffer widths that is based on best available science.
22	20.05.080.F	Buffer Reduction	Allowing a 25% reduction in the wetland buffer width is not consistent with BAS and the <i>Wetland Guidance for CAO Updates: Western Washington Version</i> . This is a high risk approach to wetland protection that we do not recommend.



MONROE PLANNING COMMISSION
Agenda Item Cover Sheet

TITLE:	Code Amendment - Proposed Amendments to Commute Trip Reduction (CTR) Regulations (Monroe Municipal Code Chapter 18.88)
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DATE:		CONTACT:	PRESENTER:	ITEM:
11/14/16		Shana Restall	Shana Restall	New Business

Discussion: 11/14/2016

Public Hearing: None

Attachments: 1. Draft Ordinance – Proposed Amendments to Commute Trip Reduction (CTR) Regulations (MMC Chapter 18.88)

DESCRIPTION/BACKGROUND

In 1991, the Washington legislature passed the Commute Trip Reduction Act (“CTR Act”) and incorporated it into the Washington Clear Air Act (RCW 70.94.521 through 70.94.555). The CTR Act requires certain counties and cities to develop ordinances, plans and programs to reduce Vehicle Miles Traveled (VMT) and drive alone commute trips, and thereby reduce vehicle-related air pollution, traffic congestion and energy use. The CTR Act was amended in 2006 by the Commute Trip Reduction Efficiency Act.

The Commute Trip Reduction Act (CTR) is locally initiated and enforced per the requirements of the Revised Code of Washington (RCW). Once a local jurisdiction has identified a “major employer,” defined as “a private or public employer, including state agencies, that employs one hundred or more full-time employees at a single work site who begin their regular workday between six a.m. and nine a.m. on at least two weekdays for at least twelve continuous months”, the jurisdiction also automatically becomes an affected employer and must comply with the law.

The City of Monroe is subject to these requirements. In 2000, the City of Monroe adopted Ordinance 1192, establishing the City’s Commute Trip Reduction provisions, which are contained in Monroe Municipal Code (MMC) Chapter 18.88 entitled “Commute Trip Reduction (CTR).” To implement MMC Chapter 18.88, the City has historically entered into an agreement with Community Transit to perform requirements and services of the Act on behalf the City of Monroe. Under that arrangement, Community Transit received the City’s share of the State Commute Trip Reduction (CTR) implementation funds.

On September 26, 2014, the CTR board adopted the State CTR Plan 2015 – 2019. It includes new statewide program goals and targets and new options for local goals and

targets. Local jurisdictions that have recently been asked by Community Transit to update and amend their CTR regulations to incorporate the new statewide goals and target. The attached draft ordinance incorporates these amendments. For the most part, the amendments are clarifying, update definitions, and relate to administration of the program.

As the City of Monroe's CTR provisions are included in MMC Title 18 "Planning and Zoning", a Planning Commission public hearing and recommendation to the City Council is required. MMC section 21.20.040(B) requires that the planning commission shall review and make recommendations on the following:

"Amendments to the subdivision code, zoning code, and environmental code (MMC Titles 17 through 20)."

As additional background, SEPA Determination of Non-Significance (DNS) was issued on the proposed ordinance amendments on November 1, 2016. The public comment deadline is November 16, 2016, with an appeal deadline of November 23, 2016.

The proposed amendments have also been transmitted to the State of Washington for State agency review in accordance with RCW 36.70A.106 on October 25, 2016. Expedited review (14 days rather than 60 days) was requested. The City will not know whether expedited review is granted until November 9, 2016 at the earliest.

Subsequent to adoption of the ordinance by the City Council, final reviews will be conducted by the Puget Sound Regional Council (PSRC) and the WSDOT CTR Board. The 2017 – 2019 CTR plan contract cycle begins in July 2017.

RECOMMENDED ACTION

Briefing and Discussion.

A public hearing on the proposed amendments are scheduled in front of the Planning Commission during the regular November 28, 2016 meeting.

ATTACHMENT 1

DRAFT

Chapter 18.88 COMMUTE TRIP REDUCTION (CTR)

Sections:

- 18.88.~~005~~–~~010~~ Purpose.
- 18.88.020 Administration.
- 18.88.~~010~~–~~030~~ Definitions.
- 18.88.~~020~~–~~040~~ CTR plan adoption by reference.
- 18.88.~~025~~–~~050~~ CTR goals.
- 18.88.~~030~~–~~060~~ Responsible city department.
- 18.88.~~040~~–~~070~~ Applicability.
- 18.88.~~050~~–~~080~~ Requirements for employers.
- 18.88.~~060~~–~~090~~ Record keeping.
- 18.88.~~070~~–~~100~~ Schedule and process for CTR reports.
- 18.88.~~090~~–~~110~~ Enforcement.
- 18.88.~~100~~–~~120~~ Exemptions and goal modifications.
- 18.88.~~110~~–~~130~~ Appeals.

18.88.~~005~~–~~010~~ Purpose.

The purpose of this chapter is to provide a method for compliance with the Washington State Commute Trip Reduction Law of 1991 (RCW 70.94.521 through ~~70.94.551~~70.94.555), and as amended in 2006 by the Commute Trip Reduction Efficiency Act. The Commute Trip Reduction Law was passed to reduce traffic congestion, air pollution, and dependency on fossil fuels through employer-based programs encouraging alternative commute methods to the single-occupancy vehicle. The Commute Trip Reduction Law shall not be used as a substitute for reviews of projects under other city requirements for compliance with the State Environmental Policy Act (SEPA).

18.88.020 Administration.

The Director of Community Development or their designee shall have the duty and responsibility to administer the provisions of this chapter with the authority to promulgate rules and regulations to implement and administer this chapter.

18.88.~~010~~–~~030~~ Definitions.

For the purpose of this chapter, the following definitions shall apply in the interpretation and enforcement of this chapter:

“Affected employee” means a full-time employee who begins his or her regular workday at a major employer work site between six a.m. and nine a.m. (inclusive) on two or more weekdays for at least twelve continuous months, ~~who is not an independent contractor, and who is scheduled to be employed on a continuous basis for fifty two weeks for an average of at least thirty five hours per week.~~ For the purpose of defining affected employees the following apply:

A. A full-time employee is a person other than an independent contractor, scheduled to be employed on a continuous basis for fifty-two weeks for an average of at least thirty-five hours per week.

B. The employee will only be counted at his or her primary worksite.

C. Seasonal agricultural employees, including seasonal employees of processors of agricultural products, are excluded from the count of affected employees.

“Affected urban growth area” means:

A. An urban growth area, designated pursuant to RCW [36.70A.110](#), whose boundaries contain a state highway segment exceeding the one hundred person per hours of delay threshold calculated by the Washington State Department of Transportation, and any contiguous urban growth areas; and

B. An urban growth area, designated pursuant to RCW [36.70A.110](#), containing a jurisdiction with a population over seventy thousand that adopted a commute trip reduction ordinance before the year 2000, and any contiguous urban growth areas; or

C. An urban growth area identified by the Washington Department of Transportation as listed in WAC [468-63-020\(2\)\(b\)](#).

“Alternative mode” means any means of commute transportation other than that in which the single-occupant motor vehicle is the dominant mode, including ~~telecommuting~~ ~~teleworking~~ and compressed work weeks if they result in reducing commute trips.

“Alternative work schedules” mean work schedules that allow employees to work their required hours outside of the traditional Monday to Friday, eight a.m. to five p.m. schedule. Programs such as compressed workweeks ~~that~~ eliminate work trips for affected employees are an example.

“Baseline data collection” means the collection of employee trip data at a major worksite to determine the non-drive alone trips and greenhouse gas emissions per employee at the worksite. The jurisdiction uses these measurements to develop commute trip reduction targets for the major employer. The baseline measurements must be implemented in a manner that meets the requirements and timeframe specified by the city.

“Base year” means the twelve-month period that commences when the ~~city~~ City of Monroe determines an employer is required to comply with the CTR law.

“Base year survey” or “baseline measurement” means the survey, during the base year, of employees at a major employer work site to determine the drive-alone rate and vehicle miles traveled per employee at the work site. The jurisdiction uses this measurement to develop commute trip reduction goals for the major employer. The baseline measurements must be implemented in a manner that meets the requirements specified by the city.

“Carpool” means a motor vehicle occupied by at least two people traveling together for their commute trip that results in the reduction of a minimum of one motor vehicle commute trip.

“City” means the ~~city~~ City of Monroe.

“Commuter trip reduction (CTR) plan” means the City of Monroe’s plan and ordinance to regulate and administer the CTR programs of a-major employers within its jurisdiction.

“Commuter trip vehicle miles traveled per employee (VMT)” means the sum of the individual commuter trip lengths in miles over a set period divided by the number of full-time employees.

“Commuter trips” means trips made from a worker’s home to a work site during the peak period of six a.m. to nine a.m. (inclusive) on weekdays.

“Commuter matching service” means a system that assists in matching commuters for the purpose of commuting together.

“Commuter” means a resident or employee in an affected urban growth area who is participating in the city’s commuter trip reduction program, including any growth and transportation and efficiency center programs, implemented to meet Monroe’s established targets.

“Compressed work week” means an alternative work schedule, in accordance with employer policy, that regularly allows a full-time employee to eliminate at least one workday every two weeks by working longer hours during the remaining days, resulting in fewer commuter trips by the employee. This definition is primarily intended to include weekly and biweekly arrangements, the most typical being four ten-hour days or eighty hours in nine days, but may also include other arrangements.

“CTR law” means the Commuter Trip Reduction Law passed by the Washington State legislature in 1991 (Chapter 202, Laws of 1991) and codified in RCW [70.94.521](#) through [70.94.551](#), and amended in 1997 and 2006, requiring each county containing an urban growth area, designated pursuant to RCW 36.70A.110, and each city within an urban growth area with a state highway segment exceeding the one hundred person hours of delay threshold calculated by the department of transportation, as well as those counties and cities located in any contiguous urban growth areas to adopt a commuter trip reduction plan and ordinance for major employers in the affected urban growth area, requiring counties of over one hundred fifty thousand residents, with one or more major employers, to implement a CTR ordinance and plan. All cities in such counties with one or more major employers are also required to adopt CTR ordinances and plans.

“CTR program” means an employer’s strategies to reduce affected employees’ SOV use and, VMT per employee, and greenhouse gas emissions.

“Custom bus/bus pool” means a commuter bus service arranged specifically to transport employees to work.

“Employer” means a sole proprietorship, partnership, corporation, unincorporated association, cooperative, joint venture, agency, department, district, or other individual or entity, whether public, nonprofit, or private, that employs workers.

“ETC” means employer transportation coordinator as required pursuant to RCW 70.94.531(3).

“Flex-time” is an employer policy allowing individual employees some flexibility in choosing the time, but not the number, of their working hours to facilitate the use of alternative modes.

“Full-time employee” means a person, other than an independent contractor, scheduled to be employed on a continuous basis for fifty-two weeks for an average of at least thirty-five hours per week on two or more weekdays per week.

“Goals” means a the established criteria for measuring effectiveness of employer programs as outlined in the City of Monroe’s CTR plan, purpose toward which efforts are directed.

“Good faith effort” means that an employer has met the minimum requirements identified in RCW [70.94.531](#) and this chapter, and is working collaboratively with the city/county to continue its existing CTR program or is developing and implementing program modifications likely to result in improvements to its CTR program over an agreed-upon length of time.

“Growth and transportation efficiency center (GTEC)” means a defined, compact, mixed-use urban center that contains jobs or housing and supports multiple modes of transportation. For the purpose of funding, a GTEC must meet minimum criteria established by the CTR Board under RCW [70.04.537](#)~~70.94.524~~, and must be certified by a regional transportation planning organization as established in RCW [47.80.020](#).

“Implementation” means active pursuit by an employer of the CTR goals of RCW [70.94.521](#) through [70.94.551](#)~~70.94.555~~ and this chapter, as evidenced by appointment of a transportation coordinator, distribution of information to employees regarding alternatives to SOV commuting, and commencement of other measures according to its approved CTR program and schedule.

“Jurisdiction’s base year measurement” means the proportion of single-occupant vehicle commute trips by CTR commuters and commute trip vehicle miles traveled per CTR commuter on which commute trip reduction targets for the local jurisdiction shall be based. The jurisdiction’s base year measurement, for those jurisdictions with an affected urban growth area as of March 1, ~~2007~~[2017](#), shall be determined based on employee surveys administered in the ~~2006~~[2016-2017](#) survey cycle. If complete employee survey data from the ~~2006~~[2016-2017](#) survey cycle is not available, then the base year measurement shall be calculated from the most recent and available set of complete employee survey data.

“Major employer” (~~formerly “affected employer”~~) means a private or public employer, including state agencies, that employs one hundred or more full-time employees at a single work site who begin their regular workday between six a.m. and nine a.m. on at least two weekdays for at least twelve continuous months.

“Major work site” (or “worksite”) means a building or group of buildings that is/are on physically contiguous parcels of land or on parcels of land separated solely by private or public roadways or rights-of-way, and at which there are one hundred or more full-time employees.

“Mode” means the means of transportation used by employees, such as single-occupant motor vehicle, rideshare vehicle (carpool, vanpool), transit, ferry, bicycle, walking, compressed work schedule and telecommutingteleworking.

“Notice” means written communication delivered via the United States Postal Service with receipt deemed accepted three days following the day on which the notice was deposited with the postal service unless the third day falls on a weekend or legal holiday in which case the notice is deemed accepted the day after the weekend or legal holiday. Emails and Facsimile (fax) transmissions are a temporary notices of action that must be followed by the original document via mail or delivery.

“Peak period” means the hours from six a.m. to nine a.m. (inclusive), Monday through Friday, except legal holidays.

“Peak period trip” means any employee trip that delivers the employee to begin his or her regular workday between six a.m. and nine a.m. (inclusive), Monday through Friday, except legal holidays.

“Person hours of delay” means the daily person hours of delay per mile in the peak period of six a.m. to nine a.m. (inclusive), as calculated using the best available methodology by the Washington State Department of Transportation.

“Proportion of single-occupant vehicle trips” or “SOV rate” means the number of commute trips made by single-occupant automobiles divided by the number of full-time employees.

“Single-occupant vehicle (SOV)” means a motor vehicle occupied by one employee for commute purposes, including a motorcycle. If there are other passengers occupying the motor vehicle, but the ages of these passengers are sixteen or under, the motor vehicle is still considered a “single-occupant vehicle” for measurement purposes.

“Single-occupant vehicle (SOV) trips” means commute trips made by affected employees in SOVs.

“Target” means a quantifiable or measurable value that is expressed as a desired level of performance, against which actual achievement can be compared in order to assess progress, such as increase in non-drive alone trips and reduction of greenhouse gas emissions.-

“TelecommutingTeleworking” means the use of telephones, computers, or other similar technology to permit an employee to work anywhere at any time from home, eliminating a commute trip, or to work from a work place closer to home, reducing the distance traveled in a commute trip by at least half.

“Transit” means a multiple-occupant vehicle operated on a for-hire, shared-ride basis, including bus, ferry, rail, shared-ride taxi, shuttle bus, or vanpool. A transit trip counts as zero vehicle trips.

“Transportation demand management (TDM)” means a broad range of strategies that are primarily intended to reduce and reshape demand on the transportation system.

“Transportation management organization (TMO)” means a group of employers or an association representing a group of employers in a defined geographic area. A TMO may represent employers within specific city limits or may have a sphere of influence that extends beyond city limits.

“Vanpool” means a vehicle occupied by from seven-five to fifteen people traveling together for their commute trip that results in the reduction of a minimum of one motor vehicle trip. A vanpool trip counts as zero vehicle trips.

“Voluntary employer worksite” means the physical location occupied by an employer that is voluntarily implementing a CTR program.

“Week” means a seven-day calendar period starting on Monday and continuing through Sunday.

“Weekday” means any day of the week except Saturday or Sunday.

“Writing,” “written,” or “in writing” means original signed and dated documents. Emails and Facsimile (fax) transmissions are a temporary notices of action that must be followed by the original signed and dated document via mail or delivery.

18.88.020-040 CTR plan adoption by reference.

The Monroe CTR plan, as approved and adopted in 2000, and updated in 2008 and 2017, is adopted wholly and incorporated herein by reference.

18.88.025-050 CTR goals.

The goals for reducing Monroe’s proportion of drive-alone vehicle trips and commute trip vehicle miles traveled per employee are established in the Monroe CTR plan. The city will set the individual work site goals for major employers based on how the work site can contribute to city’s overall goal established in the CTR plan.

18.88.030-060 Responsible city department.

The city-City of Monroe community-Community development-Development department is responsible for implementing this chapter, the CTR plan, and the Monroe CTR program, and should be identified together with any authority necessary to carry out such responsibilities such as rule-making or certain administrative decisions.

18.88.040-070 Applicability.

The provisions of this chapter shall apply to any major employers or voluntary work sites within the corporate limits of the city-City of Monroe.

A. Notification of Applicability.

1. In addition to Monroe’s established public notification for adoption of an ordinance, a notice of availability of a summary of this chapter, a notice of the requirements and criteria for major employers and voluntary work sites to comply with this chapter, and subsequent revisions shall be published at least once in Monroe’s official newspaper not more than thirty days after passage of the ordinance codified in this chapter, or revisions.
2. Major employers and voluntary work sites located in Monroe are to receive written notification that they are subject to this chapter. Such notice shall be addressed to the company’s chief executive officer, senior official, or CTR manager at the work site. Such notification shall provide ninety days for the major employer to perform a baseline survey. After the results of the baseline survey are provided to the major employer, they have ninety days to submit a CTR program to the city.

3. Major employers and voluntary work sites that, for whatever reason, do not receive notice within thirty days of passage of the ordinance codified in this chapter and are either notified or identify themselves to the city within ninety days of the passage of the ordinance will be granted an extension to assure up to ninety days within which to perform a baseline survey. After the results of the baseline survey are provided to the major employer, they have ninety days to submit a CTR program to the city.

4. Major employers that have not been identified or do not identify themselves within ninety days of the passage of the ordinance, do not complete a baseline survey within ninety days, or do not submit a CTR program within one hundred eighty days are in violation of this chapter.

5. If a major employer or voluntary work site has already performed a baseline survey, the major employer or voluntary work site is not required to perform another survey and is required to submit a CTR plan to the city within 90 days.

B. New Major Employers and Voluntary Work Sites.

1. Employers that meet the definition of “a major employer” in this chapter must identify themselves to the city within ninety days of either moving into the boundaries of Monroe or growing in employment at a work site to one hundred or more affected employees. Such employers shall be given ninety days to complete a baseline survey, and an additional ninety days to submit a CTR program once the baseline survey results are given to the employer. The CTR program will be developed in consultation with the city and implemented not more than ninety days after the program’s approval. Employers who do not implement an approved CTR program according to this section are in violation of this chapter.

2. Employers that do not identify themselves within ninety days are in violation of this chapter.

3. New major employers shall have four years from the city’s acceptance of the program to meet the CTR reduction goals as stated in the city’s CTR plan.

C. Change in Status as a Major Employer. Any of the following changes in an employer’s status will change the employer’s CTR program requirements:

1. If an employer initially designated as major employer no longer employs one hundred or more affected employees and expects not to employ one hundred or more affected employees for the next twelve months, that employer is no longer a major employer. It is the responsibility of the employer to notify the city that it is no longer an employer.

2. If the same employer returns to the level of one hundred or more affected employees within the same twelve months, that employer will be considered a major employer for the entire twelve months and will be subject to the same program requirements as other major employers.

3. If the same employer returns to the level of one hundred or more affected employees twelve or more months after its change in status to an unaffected employer, that employer shall be treated as a new major employer and will be subject to the same program requirements as other new major employers.

18.88.050-080 Requirements for employers.

Major employers and voluntary work sites are required to make a good faith effort, as defined in RCW [70.94.534\(2\)](#) and this chapter, to develop and implement a CTR program that will encourage their employees to reduce drive-alone commute trips and commute trip vehicle miles traveled per employee. The employer shall submit a description of its program to city and provide an annual progress report to city on employee commuting and progress toward meeting the SOV goals and targets. The CTR program must include the mandatory elements as described below.

A. CTR Program Description Requirements. The CTR program description presents the strategies to be undertaken by an employer to achieve the program goals and targets stated in the city's CTR plan~~commute trip reduction goals. The goals are stated in the city's CTR plan.~~ Employers are encouraged to consider innovative strategies and combine program elements in a manner that will best suit their location, site characteristics, business type, and employees' commuting needs. Employers are further encouraged to cooperate with each other and to form or use transportation management organizations in developing and implementing CTR programs.

At a minimum, the employer's description must include:

1. General description of the employment site location, transportation characteristics, and surrounding services, including unique conditions experienced by the employer or its employees;
2. Number of employees affected by the CTR program;
3. Documentation of compliance with the mandatory CTR program elements ~~(as described in subsection (B) of this section)~~;
4. Description of the additional elements included in the CTR program ~~(as described in subsection (B) of this section)~~; and
5. Schedule of implementation, assignment of responsibilities, and commitment to provide appropriate resources.

B. Mandatory Program Elements. Each employer's CTR program shall include the following mandatory elements:

1. Employee Transportation Coordinator (ETC). The employer shall designate an on-site transportation coordinator to administer the CTR program. The coordinator's and/or designee's name, location, and ~~telephone number~~contact information must be displayed prominently at each affected work site. ETCs shall be trained in CTR program development and administration through a program approved by the city. The ETC shall attend annual ETC training and a minimum of six hours of other training or network meetings annually, or as organized by the city. The coordinator shall oversee all elements of the employer's CTR program and act as liaison between the employer and the city. The objective is to have an effective transportation coordinator presence at each work site; a major employer with multiple sites may have one on-site transportation coordinator for all sites.
2. Information Distribution. Information about alternatives to drive-alone commuting shall be provided to employees at least twice a year. Each employer's program description and annual or

biannual report must ~~identify~~ report the information to be distributed and the method of distribution.

3. Annual or Biannual Progress Report. The CTR program must include an annual or biannual review of employee commuting and progress and good faith efforts toward meeting the goals and targets as outlined in the CTR plan. ~~SOV and VMT reduction goals.~~ Determination of annual or biannual reporting requirement is dependent on work site commute trip reduction performance and the city will advise the major employer of required report frequency. Major employers shall file an annual or biannual progress report with the city in accordance with the format established by this chapter and consistent with the CTR Task Force Guidelines. The report shall describe each of the CTR measures that were in effect for the previous year(s), the results of any commuter surveys undertaken during the year(s), and the number of employees participating in CTR programs. Within the report, the employer should evaluate the effectiveness of the CTR program and, if necessary, propose modifications to achieve the CTR goals and targets. Survey information or approved alternative information must be provided every two years after implementation begins. The employer should contact the city for the format of the report.

4. Biannual Survey or Measurement. In addition to the specific program baseline measurement, employers shall conduct a program data evaluation as a means of determining work site progress toward meeting CTR goals. As part of the program evaluation, the employer shall distribute and collect commute trip reduction program employee questionnaires (surveys) at least once every two years, and achieve a seventy percent response rate from employees at the work site.

5. Annual Worksite Promotion of Employer CTR Program. Major employers will hold at least one annual transportation fair or equivalent promotion, which is available to all employees at each major worksite.

6. ETC Training. ETCs will be required to attend an ETC basic training session within six months of appointment.

7. Employer Notification. Employers will be required to notify the city or designee when there are proposed changes to their CTR program, changes in ETC or contact information, and/or changes in number of employees at the worksite.

8. ETC Networking/Advanced Training. ETCs will be required to attend at least six hours of networking or advanced training per year. Training and networking sessions may include marketing CTR programs to employees, trip planning, ridesharing, joint promotions and networking meetings.

59. Additional Program Elements. In addition to the specific program elements described above, the employer's CTR program shall include additional elements as needed to meet CTR goals and targets. Elements may include, but are not limited to, one or more of the following:

- a. Provision of preferential parking or reduced parking charges, or both, for high-occupancy vehicles;
- b. Instituting or increasing parking charges for SOVs;

- c. Provision of commuter ride matching services to facilitate employee ride-sharing for commute trips;
- d. Provision of subsidies for transit fares;
- e. Provision of vans for vanpools;
- f. Provision of subsidies for carpools or vanpools;
- g. Permitting the use of the employer's vehicles for carpooling or vanpooling;
- h. Permitting flexible work schedules to facilitate employees' use of transit, carpools, or vanpools;
- i. Cooperation with transportation providers to provide additional regular or express service to the work site;
- j. Construction of special loading and unloading facilities for transit, carpool, and vanpool users;
- k. Provision of bicycle parking facilities, lockers, changing areas, and showers for employees who bicycle or walk to work;
- l. Provision of a program of parking incentives such as a rebate for employees who do not use the parking facilities;
- m. Establishment of a program to permit employees to work part- or full-time at home or at an alternative work site closer to their homes;
- n. Establishment of a program of alternative work schedules, such as a compressed workweek, which reduces commuting;
- o. Promotional activities for ridesharing and transit, as well as fixed commuter information centers;
- p. Guaranteed rides in emergency situations for rideshare participants;
- q. Reduction of parking provided in accordance with the Monroe zoning code;
- r. Charging employees for parking, and/or the elimination of free parking; and
- s. Implementation of other measures designed to facilitate the use of high-occupancy vehicles, such as on-site day care facilities and emergency taxi services.

18.88.060-090 Record keeping.

Major employers shall include a list of the records they will keep as part of the CTR program they submit to the [city City](#) for approval. Records shall reflect the measures selected by the employer. For example,

an employer providing transit and vanpool pass subsidies shall keep monthly records of pass sales; employers with parking charges and reduced rates for carpools and vanpools shall record parking pass sales by type. Employers will maintain all records listed in their CTR program for a minimum of forty-eight months. The ~~city~~ City of Monroe and the employer shall agree on the record keeping requirements as part of the accepted CTR program.

18.88.070-100 Schedule and process for CTR reports.

A. CTR Program. Not more than ninety days after the adoption of the ordinance codified in this chapter, or within ninety days after an employer qualifies under the provisions of this chapter, the employer will be given ninety days to complete baseline data collection, and an additional ninety days to submit a CTR program once the baseline data results are given to the employer. The CTR program will be developed in consultation with the city and implemented not more than ninety days after the program's approval by the city. Employers who do not implement an approved CTR program according to this section are in violation of this chapter.

AB. Document Review. Monroe shall provide the employer with written notification if a CTR program is deemed unacceptable. The notification must give cause for any rejection. The employer shall have thirty days to resubmit a modified program. If the employer receives no written notification of extension of the review period of its CTR program or comments on the CTR program or annual report within ninety days of submission, the employer's program or annual report is deemed accepted. The city may extend the review period up to ninety days. The implementation date for the employer's CTR program will be extended an equivalent number of days.

BC. Schedule. Upon review of an employer's initial CTR program, Monroe shall establish the employer's annual reporting date, which shall not be less than twelve months from the day the program is submitted. Each year, on the employer's reporting date, the employer shall submit to Monroe its annual CTR report.

CD. Modification of CTR Program Elements. Any major employer may submit a request ~~that to~~ the city to allow for the modification of CTR program elements, other than the mandatory elements specified in this chapter, including record keeping requirements. Such request may be granted if one of the following conditions exists:

1. The employer can demonstrate that it would be unable to comply with the CTR program elements for reasons beyond the control of the employer, or
2. The employer can demonstrate that compliance with the program elements would constitute an undue hardship.

The city of Monroe may ask the employer to substitute a program element of similar trip reduction potential rather than grant the employer's request.

DE. Extensions. An employer may request additional time to submit a CTR program or CTR annual progress report, or to implement or modify a program. Such requests shall be made in writing at least thirty days before the due date for which the extension is being requested. Extensions not to exceed ninety days shall be considered for reasonable causes. The city shall grant or deny the employer's extension request in writing within ten working days of receipt of the extension request. If there is no

response issued to the employer, an extension is automatically granted for thirty days. Extensions shall not exempt an employer from any responsibility in meeting program goals and targets. Extensions granted due to delays or difficulties with any program element(s) shall not be cause for discontinuing or failing to implement other program elements. An employer's annual reporting date shall not be adjusted permanently as a result of these extensions. An employer's annual reporting date may be extended at the discretion of the ~~d~~Director of ~~C~~ommunity ~~D~~evelopment.

EE. Implementation of Employer's CTR Program. Unless extensions are granted, the employer shall implement its approved CTR program not more than ninety days after receiving written notice from the city that the program has been approved or with the expiration of the program review period without receiving notice from the city.

18.88.090-110 Enforcement.

A. Compliance. For purposes of this section, compliance shall mean fully implementing in good faith all provisions in an approved CTR program.

B. Program Modification Criteria. The following criteria for achieving goals and targets for non-drive alone trips and greenhouse gas emissions per employee VMT per employee and proportion of drive-alone trips shall be applied in determining requirements for employer CTR program modifications:

1. If an employer makes a good faith effort, as defined in RCW 70.94.534(2) and this chapter, and meets either or both goals, the employer has satisfied the objectives of the CTR plan and will not be required to modify its CTR program;
2. If an employer makes a good faith effort, as defined in RCW 70.94.534(2) and this chapter, but has not met or is not likely to meet the applicable drive-alone or VMT goal targets, the city/~~county~~ shall work collaboratively with the employer to make modifications to its CTR program. After agreeing on modifications, the employer shall submit a revised CTR program description to the city for approval within thirty days of reaching agreement;
3. If an employer fails to make a good faith effort as defined in RCW 70.94.534(2) and this chapter, and fails to meet the applicable drive-alone or VMT reduction goal targets, the city shall work collaboratively with the employer to identify modifications to the CTR program and shall direct the employer to revise its program within thirty days to incorporate the modifications. If a revised program is not accepted, the city will send written notice to that effect to the employer within thirty days and, if necessary, require the employer to attend a conference with program review staff for the purpose of reaching a consensus on the required program. A final decision on the required program will be issued in writing by the city within ten working days of the conference.

C. Violations. The following constitute violations if the deadlines established in this chapter are not met:

1. Failure to perform a baseline measurement within ninety days of written notification from the city that an employer qualifies as a major employer, including:
 - a. Employers notified or that have identified themselves to the city within ninety days of the ordinance codified in this chapter being adopted and that do not perform baseline data

collection consistent with the requirements specified by the city within ninety days from the notification or self-identification;

b. Employers not identified or self-identified within ninety days of the ordinance codified in this chapter being adopted and that do not perform baseline data collection consistent with the requirements specified by the city within ninety days from the adoption of the ordinance codified by this chapter;

c. A new major employer that does not perform baseline data collection consistent with the requirements specified by the city within ninety days of identification as a major employer;

2. Failure to develop and/or submit on time a complete CTR program.
3. Failure to implement an approved CTR program, unless the program elements that are carried out can be shown through quantifiable evidence to meet or exceed the goals and targets VMT and drive-alone goals as specified in this chapter;
4. Submission of false or fraudulent data in response to survey and data collection requirements;
5. Failure to make a good faith effort, as defined in RCW [70.94.534\(2\)](#) and this chapter; or
6. Failure to revise a CTR program as defined in RCW [70.94.534\(4\)](#) and this chapter.

D. Penalties.

1. No major employer or voluntary worksite with an approved CTR program that has made a good faith effort may be held liable for failure to reach the applicable goals and targets drive-alone or VMT goal;

~~2. Compliance with the requirements of this code is mandatory. The general penalties and remedies established in Chapter [21.70](#) MMC for such apply to any violation of this code. The enforcement actions authorized under this code shall be supplemental to those general penalties and remedies in Chapter [21.70](#) MMC.~~

~~32.~~ A major employer shall not be liable for civil penalties if failure to implement an element of a CTR program was the result of an inability to reach agreement with a certified collective bargaining agent under applicable laws where the issue was raised by the employer and pursued in good faith. Unionized employers shall be presumed to act in good faith compliance if they:

- a. Propose to a recognized union any provision of the employer's CTR program that is subject to bargaining as defined by the National Labor Relations Act; and
- b. Advise the union of the existence of the statute and the mandates of the CTR program approved by the city and advise the union that the proposal being made is necessary for compliance with state law (RCW [70.94.531](#)).

3. Compliance with the requirements of this code is mandatory. The general penalties and remedies established in Chapter 21.70 MMC for such apply to any violation of this code. The enforcement actions authorized under this code shall be supplemental to those general penalties and remedies in Chapter 21.70 MMC.

18.88.~~100-120~~ Exemptions and goal modifications.

A. Work Site Exemptions. A major employer may request the city to grant an exemption from all CTR program requirements or penalties for a particular work site. The employer must demonstrate that it would experience undue hardship in complying with the requirements of this chapter as a result of the characteristics of its business, its work force, or its location(s). An exemption may be granted if and only if the major employer demonstrates that it faces extraordinary circumstances, such as bankruptcy, and is unable to implement any measures any measures of the approved CTR plan~~that could reduce the proportion of drive-alone trips and VMT per employee~~. Exemptions may be granted by the city at any time based on written notice provided by the major employer. The notice should clearly explain the conditions for which the major employer is seeking an exemption from the requirements of the CTR program. The city shall review annually all employers receiving exemptions, and shall determine whether the exemption will be in effect during the following program year.

B. Employee Exemptions. Specific employees or groups of employees who are required to drive alone to work as a condition of employment may be exempted from a work site's CTR program. Exemptions may also be granted for employees who work variable shifts throughout the year and who do not rotate as a group to identical shifts. The city will use the criteria identified in the CTR Board Guidelines to assess the validity of employee exemption requests. The city shall review annually all employee exemption requests, and shall determine whether the exemption will be in effect during the following program year.

C. Modification of CTR Program Goals and Targets.

1. A major employer may request that the city modify its CTR program goals and/or targets. Such requests shall be filed in writing at least sixty days prior to the date the work site is required to submit its program description or annual report. The ~~goal~~ modification request must clearly explain why the work site is unable to achieve ~~each the~~ applicable goal and/or target. The work site must also demonstrate that it has implemented all of the elements contained in its approved CTR program.

2. The city will review and grant or deny requests for goal modifications in accordance with procedures and criteria identified in the CTR Board Guidelines.

3. An employer may not request a modification of the applicable goals and/or targets until one year after city approval of its initial program description or annual report.

18.88.~~110-130~~ Appeals.

Administrative interpretations and administrative approvals may be appealed, by a major employer, to the hearing examiner in accordance with MMC 21.60.010. The appeal must be in writing and state in a clear and concise manner the specific exceptions and objections to the administrative decision. The decision on the appeal shall constitute a final decision appealable to the city council.