

City of Cle Elum Critical Area Ordinance Update

No.	Commenter	Letter Comment	Response	Action Taken
1.	G. Dohrn (Page 1 of comment letter/email received 2/3/21)	Aren't both updated documents subject to a 60-day state agency GMA review and comment period? Frequently the SEPA and GMA reviews are integrated so that there is a single review and comment period. It looks like the Critical Area comment period is 14/15 days and the Shoreline Master Program comment period is 41/42 days? A public hearing is referenced for March 16th. Is that hearing for both documents? Alex, or Richard may have insights on this, but technically shouldn't they be separate hearings? Is it your intent to run the GMA review after the SEPA review, so that there are two separate review and comment periods? I'll address this later, but I think it would be appropriate to note in the SEPA letter and elsewhere that the SMP is applicable to jurisdictional shoreline areas in the City which includes the Yakima and Cle Elum rivers and their associated wetlands and that the critical areas regulations apply to designated areas not under the jurisdiction of the City's Shoreline Master Program.	The notices, hearings, schedule, and processes have been vetted through and approved by Ecology. The comment periods have been collapsed as much as possible and still be agreeable to Ecology. The March 16th Planning Commission meeting will include two hearings: one for each document/update. The Commerce review periods rarely return comments and are seen as more of a procedural requirement. However, adequate float has been included in the project schedule, should the Commerce review period return substantive comments. The final Council hearing and adoption scheduled for May 24 is also included in case there are any late arriving substantive comments. This is also scheduled for end of May, which is a month before deadline to allow for any additional curveballs.	NA

			We can add a statement about jurisdictionally to future notices.	
2.	G. Dohrn (Page 1 of comment letter/email received 2/3/21)	I am wondering if the draft updated critical area regulations have been reviewed by other City staff? I see provisions that I wonder about that I know Ben would have professional knowledge and experience in, and would certainly have comments. The same for Richard and the City Attorney. The same for Mike and Rob. I have highlighted numerous provisions in the document that I am concerned about and have added my comments in the margins. Some of the comments have to do with intent and clarity, some have to do with ease of administration, and some with the substance of the provision. In some instances there may be a very good reason for the provision as it is written, but I would encourage you to take a look at my comments. My review was cursory, so I may have missed some things, but if it would be helpful I'd be happy to elaborate. If you haven't already done so, I'd encourage you to get comments from Ben, Richard, Alex et al. A few ounces of prevention is worth several pounds of cure....	<p>The draft documents were not ready for review until recently. If we had waited for staff or other preliminary reviews, this would have resulted in further delay/schedule changes. As you have noted, there are months of review periods, during which everyone will have adequate time for review and comments.</p> <p>Your comments are addressed by myself and AHBL and any items that need to be passed along to other staff or counsel will be forwarded on. I will discuss with Rob which staff/consultants will be requested to review and provide additional comments.</p>	NA
3.	G. Dohrn (Page 1 & 2 of comment letter/email received 2/3/21)	One of the challenging aspects of updating these documents is the relationship between the Shoreline Master Program and Critical Areas Ordinance. In the SMP I found the following: <i>The following provisions apply to any use or development occurring in or adjacent to</i>	CEMC 18.01.030(G) states the following: "All areas within the city meeting the definition of one or more critical areas defined above are hereby designated critical areas and are subject to the provisions of	Section rearranged to make edit

		<p><i>critical areas or their buffers in shoreline jurisdiction whether or not a permit or other authorization is required from Cle Elum. Critical areas outside of shoreline jurisdiction shall be regulated by Cle Elum Municipal Code (CEMC) Title 18—Critical Areas Development and not this Section of this Program.</i></p> <p>That is consistent with my experiences, and it frequently doesn't make sense to a lay person who wonders why can't the state agencies coordinate their efforts and come up with one set of guidelines instead of creating separate universes. It is entirely possible that I missed it, but I think that a similar provision should be clearly stated at the very beginning of the critical area regulations, that these regulations only apply to critical areas outside of jurisdictional shoreline areas and that critical areas within shoreline jurisdictional areas are subject to the CAO and are subject to the Shoreline Master program. This can be confusing so I frequently state this in big bold letters.</p> <p>Also, if this is the case, the references to development activities in shorelines in the CAO document should be deleted.</p>	<p>this chapter except for critical areas within the City of Cle Elum shorelines. The City of Cle Elum Shoreline Master Program supersedes this chapter for only those critical areas within shoreline designations."</p> <p>We have no concerns with moving this to the front.</p>	
4.	G. Dohrn (Page 2 of comment letter/email received 2/3/21)	For consistency sake, I've highlighted references to different city positions that should be replaced with "the City".	The "Administrator" is the City Planner as the administrator of the SMP or CAO regulations. However, we will make this adjustment throughout the	Administrator changed to City throughout the CAO

			CAO to eliminate any confusion.	
5.	G. Dohrn (Page 2 of comment letter/email received 2/3/21)	I see reference to a Best Available Science document prepared for the City in October 2020. Has the Mayor/City Administrator, or City staff reviewed this document? Has the Planning Commission? Has the City Council authorized its use? Is there a staff report that highlights the significant changes in this document or how it will result in changes to the City's critical areas regulations?	The BAS and all other documents were made available to the Planning Commission, City Council, staff, agencies with jurisdiction, and the community with the notice of SEPA comment period. A staff report will be prepared and presented to the Planning Commission for their March 16 public hearing.	NA
6.	G. Dohrn (Page 3 of comment letter/email received 2/3/21)	We touched upon this before, but I recall that FEMA had revisions to the FIRM map applicable to the City under review that was the source of some concern. Has FEMA officially adopted these maps? If not, what is the status? If so, what is the effect, if any, on the city and the development potential of properties? Would this new map necessitate a review of the City zoning map based on changes in development potential of certain areas?	The FEMA process is for the regulatory floodplains/floodways. The SMP extends 200ft landward of the FEMA floodway boundary. Frequently Flooded Areas are also covered under CAO, so there are interfaces between the FEMA regulated areas and both the SMP and CAO. FEMA maps are intended to be adopted quite soon. We then will have 6 months to adopt our updated Flood Hazard regulations, as applicable. At this time, I believe our ordinance includes a provision to automatically include the new maps, but I will be working on this as the City's Floodplain Manager. I have already	NA

			<p>received comments on our ordinance from our local Ecology floodplain representative, which I will review soon and share with applicable staff. We will need to include the review, including a hearing, on the Planning Commission's 2021 work plan. However, without knowing when the maps will be formally adopted, we don't know when the soonest/latest dates we can adopt the revisions. I will keep you updated, but am not requesting any additional work from you on this matter at this time.</p>	
7.	<p>Gregg Dohrn (Page 1 of marked up CAO attached to Comment Letter)</p>	<p>A summary of the amendments would be helpful</p>	<p>A short summary can be completed, separately from this document, and is often included in the approving ordinance. AHBL does not recommend a summary of the amendments within the CAO code.</p>	<p>NA</p>
8.	<p>Gregg Dohrn (18.01.010 Purpose: Page 1 of marked up CAO attached to Comment Letter)</p>	<p>DO THESE REGULATIONS APPLY TO ALL CRITICAL AREAS WITHIN THE CITY INCLUDING JURISDICTIONAL SHORELINE AREAS? OR ARE THERE PROVISIONS IN THE SHORELINE MASTER PROGRAM THAT APPLY TO CRITICAL AREAS THAT ARE SUBJECT TO SHORELINE REGULATIONS? THIS SHOULD BE CLARIFIED</p>	<p>The CAO provides this in CEMC 18.01.030, AHBL is okay with moving this up.</p>	<p>'The City of Cle Elum shall regulate all uses, activities and developments within, adjacent to, or likely to affect, one or more critical areas, consistent with the best available science and the provisions herein.' has been added to 18.01.010</p>

		UPFRONT IN THIS CHAPTER AND AGAIN IN CEMC 18.02.		
9.	Gregg Dohrn (18.01.020 Definitions "Buffer": Page 2 of marked up CAO attached to Comment Letter)	Has the Planning Commission reviewed this document or the City Council approved the use of this document? Are there significant differences between this BAS document and the previous BAS document(s)?	<p>We are not aware if Planning Commission and City Council have seen the BAS document. BAS is a requirement from the state and is subject to WAC 365-195-900 through 925. This is a scientific exorcise that is approved by Department of Commence and Department of Ecology.</p> <p>While providing the BAS to the Planning Commission and City Council would be okay, these groups would need to understand that any changes not supported by BAS would likely not be approved by the State and/or opens the city litigation.</p>	NA
10.	Gregg Dohrn (18.01.020 Definitions "Geologically Hazardous Area": Page 4 of marked up CAO attached to Comment Letter)	Doesn't FEMA determine floodplains?	Correct	NA
11.	Gregg Dohrn (18.01.030 Designation and	<p><i>T the city is as an aquifer recharge areas</i></p> <p>"Is there a typo in this sentence?"</p>	Yes, and it has been addressed from a previous comment from Lucy or will be addressed.	Typo corrected

	Mapping of critical areas .C: Page 10 of marked up CAO attached to Comment Letter)			
12.	Gregg Dohrn (18.01.030 Designation and Mapping of critical areas .C: Page 10 of marked up CAO attached to Comment Letter)	This appears to be a administrative interpretation or a regulatory provision and isn't a definition. Does the entire city lie over alluvial soil deposits? Does the entire city meet the CARA definition, or is this a choice to err on the side of protecting the groundwater?	CEMC 18.01.030 is about the designation and mapping of Critical areas.  The BAS has identified that the entire City meets the definition of a CARA. As noted, this is a preliminary determination until further studies can be completed on individual sites.	NA
13.	Gregg Dohrn (18.01.030 Designation and Mapping of critical areas .E: Page 11 of marked up CAO attached to Comment Letter)	This is somewhat confusing and doesn't neatly align with the definitions. I'd recommend deleting the definitions and address these areas in the regulations as you are doing here.	AHBL: Geologically hazardous areas is defined per CAO Checklist and RCW 36.70A.030(10). We do not recommend any changes.	NA
14.	Gregg Dohrn (18.01.030 Designation and Mapping of critical areas .E.3: Page 12 of marked up CAO attached to Comment Letter)	<i>T the strength</i>  "Typo"	Typo corrected	Typo corrected
15.	Gregg Dohrn (18.01.030 Designation and	<i>Mine hazard areas are those areas affected by steep and unstable slopes created by open</i>	Upon reconsideration, we think we should revise this statement and use the	Mine Hazards have been updated with language used in WAC 365-190-120

	Mapping of critical areas .E.4: Page 13 of marked up CAO attached to Comment Letter)	<i>mines (e.g. open basalt rock pits, rock quarries, sand and gravel pits).</i>  “In Cle Elum aren't there mine hazard areas associated with underground mining activities?”	language from state law, as the existing language references.	
<b>16.</b>	Gregg Dohrn (18.01.030 Designation and Mapping of critical areas .E.6: Page 13 of marked up CAO attached to Comment Letter)	<i>ESA (2012)</i>  “What is this?”	This is a referenced used within the BAS.	NA
<b>17.</b>	Gregg Dohrn (18.01.030 Designation and Mapping of critical areas .E.7: Page 13 of marked up CAO attached to Comment Letter)	This is a list of geological hazard areas. Aren't slopes greater than 35% a different item known landslide hazard areas? Are all slopes greater than 35% considered a geological hazard areas or just those identified by ESA (2012)?	The BAS made this recommendation. We recommend that "known landslides" is replaced with "known steep slopes" to provide clarity. The BAS does not specifically state that all slopes greater than 35% are steep slopes but states that Steep Slopes have been identified. AHBL assumes that the intent of the BAS was for only those previously identified Steep slopes, but AHBL is okay with updating this section that identifies all slopes greater than 35% as steep slopes.	Text amended to read 'Steep Slopes: Known landslide areas documented by the Washington State Department of Natural Resources (DNR)(2020) and are those areas with steep slopes greater than 35%. '
<b>18.</b>	Gregg Dohrn (18.01.030 Designation and	<i>Habitats and species of local importance are those identified by the City of Cle Elum</i>	As we understand it, the City has not yet. The BAS recommends that the City	NA



	Mapping of critical areas .F.4: Page 14 of marked up CAO attached to Comment Letter)	“Has the City identified any of these?”	looks into creating a list. This allows the City to be able to identify habitat and species of local importance in the future without needs to update CAO code. No changes recommended.	
19.	Gregg Dohrn (18.01.030 Designation and Mapping of critical areas .F.7: Page 15 of marked up CAO attached to Comment Letter)	<i>G. All areas within the city meeting the definition of one or more critical areas defined above are hereby designated critical areas and are subject to provisions of this chapter except for critical areas within the City of Cle Elum shorelines. The City of Cle Elum Shoreline Master Program supersedes this chapter for only those critical areas within shoreline designations.</i>  “Shouldn't this occur at the beginning of the list not at the end of the list?”	We have no concerns with moving this to the front, but it is not required.	Section rearranged to make edit
20.	Gregg Dohrn (18.01.040 Construction with other laws.A: Page 15 of marked up CAO attached to Comment Letter)	<i>A. Abrogation and Greater Restrictions. It is not intended that this chapter repeals, abrogates, or impairs any existing regulations, easements, covenants, or deed restrictions.</i>  “What does this mean and is it necessary?”	This was kept to make it clear that the CAO does not impact existing easements, covenants, and/or deeds. We are okay with CEMC 18.01.040. being removed or being left.  Ultimately, abrogation/impact on existing restrictions is going to determined by state law. So, this might not be necessary.	Section removed
21.	Gregg Dohrn (18.01.040 Construction with other laws .B:	<i>B. Interpretation. The provisions of this chapter shall be liberally construed to serve the purposes of this chapter.</i>	This allows the City to make determinations that serve the purpose of this chapter.	No change

	Page 15 of marked up CAO attached to Comment Letter)	“What does it mean to liberally construe the provisions of this chapter? Does this provision interfere with the City's ability to make a well-reasoned code interpretation?”		
22.	Gregg Dohrn (18.01.050 Permitting: Page 15 of Marked up CAO attached to Comment Letter)	<p><i>All applications for permits to conduct activities having a possible impact on critical areas that are located on or near a project site must identify the areas affected and make an estimate of the probable impacts.</i></p> <p>“Do they have to make an estimate, or to identify and analyze the impacts and take measures to avoid, minimize, or mitigate potential adverse impacts?”</p>	This was existing language we kept from the CAO. We do not have issue with the language here as written because under the performance standards there are specific requirements for mitigation sequencing.	NA
23.	Gregg Dohrn (18.01.050 Permitting: Page 15 of marked up CAO attached to Comment Letter)	<p><i>The city of Cle Elum shall deny all requests for permits which would result in activities degrading a wetland or fish and/or wildlife habitat conservation area, which would put people or property in a position of unacceptable risk with respect to floods or geological hazards, which would tend to aggravate geological hazards, or which would harm critical recharging areas for aquifers.</i></p> <p>“Shall is mandatory. The state law does not preclude degradation, rather it requires that the impacts be identified and considered. It can be argued that a certain amount of degradation is inevitable. Terms like unacceptable risk and tend to aggravate will be difficult to define and enforce.”</p>	At the end of the sentence, we suggest adding the words "not otherwise in accordance with this Chapter".	Paragraph edited to read: The city of Cle Elum shall deny all requests for permits which would result in activities degrading a wetland or fish and/or wildlife habitat conservation area, which would put people or property in a position of unacceptable risk with respect to floods or geologic hazards, which would tend to aggravate geologic hazards, or which would harm critical recharging areas for aquifers <u>not otherwise in accordance with this Chapter.</u>
24.	Gregg Dohrn (18.01.055 Determination .A:	<i>City staff shall use maps and data maintained by the city and a site inspection if appropriate.</i>	We agree and believe this sentence doesn't add anything	Sentence removed

	Page 16 of marked up CAO attached to Comment Letter)	“Once again this is mandatory. Isn't it the Applicant/Project Sponsor's responsibility to determine if there are critical areas on or near the project site, regardless of whether they have been previously mapped or not?”	substantive to the section. We'd recommend removing.	<del>City staff shall use maps and data maintained by the city and a site inspection if appropriate.</del>
25.	Gregg Dohrn (18.01.055 Determination .B.2: Page 16 of marked up CAO attached to Comment Letter)	<i>Best available information should include, but not be limited to, aerial photos, soils maps, and/or topographic maps; and</i>  “Doesn't the applicant have the obligation to identify and delineate wetlands? what is the intent of this provision?”	Wetland delineations are required per CEMC 18.01.055(B).  We are okay with removing should.	Best available information <del>should</del> includes, but <del>is not</del> <del>be</del> limited to, aerial photos, soils maps, and/or topographic maps; and
26.	Gregg Dohrn (18.01.055 Determination .C: Page 16 of marked up CAO attached to Comment Letter)	This addresses my previous comment. It appears that a choice is being made to error on the side of assuming that the entire city is within a CARA. That is not an unreasonable assumption. But, what are the activities, that would not be permitted as a result of this determination, that could be permitted if it was determined that an area was not a CARA? In other words, if an activity is precluded because of its potential to adversely impact an aquifer, why would the City want to permit it all?	If a site is determined not to be in a CARA, then there is not potential adverse impact to an aquifer and not subject to CAO standards. If this City wants to prohibit these uses, it would need to be done through the zoning standards.  No changes recommended.	NA
27.	Gregg Dohrn (18.01.055 Determination .D.2: Page 16 of marked up CAO attached to Comment Letter)	<i>Based on the characteristics of the site, the Administrator may require that all or a portion of the following be included in a habitat management plan:</i>  “to be consistent, use City”	This was addressed in the responses to the email above. The change will be made throughout the document, so the 12 other exact duplicate comments were deleted from the list below.	Based on the characteristics of the site, the <del>Administrator</del> <u>City</u> may require that all or a portion of the following be included in a habitat management plan:
28.	Gregg Dohrn	<i>If the professional preparing the geological hazard are risk assessment concludes that</i>	This section makes it clear that if the risk assessment states	NA

	(18.01.055 Determination .F: Page 19 of marked up CAO attached to Comment Letter)	<i>further analysis is necessary, the applicant shall submit a geotechnical report.</i>  “Isn't it the City's responsibility to determine if a geotech report is required? What if a professional hired by the Applicant concludes that further analysis is not necessary, and the City disagrees?”	that further analysis is necessary that a geotechnical report is required. This does not preclude the City from request revisions or denying the project if they disagree.	
29.	Gregg Dohrn (18.01.055 Determination G.1: Page 19 of marked up CAO attached to Comment Letter)	This is a comment applicable to all critical area reports. Is there a provision(s) that enables the City submit technical studies submitted by the Applicant to a third party for a peer review at the Applicants expense?	The permit sections says " Applicable permit fees, as set forth by resolution of the city council, are due at the time of application." Re-stating the fee payment requirement is fine and further puts the developer on notice of their payment obligations.	18.01.050 Permitting. Applicable permit fees, as set forth by resolution of the city council, are due at the time of application. <u>The applicant shall be responsible for the initiation, preparation, submission, and expense of all required reports, assessment(s), studies, plans, reconnaissance(s), peer review(s) by qualified consultants, and other work prepared in support of or necessary to review the application.</u>
30.	Gregg Dohrn (18.01.070 Performance Standards A.1.c: Page 22 of marked up CAO attached to Comment Letter)	<i>c. Toxic runoff from new impervious surface area shall be directed away from wetlands</i>  “Is toxic runoff permitted in the city?”	We recommend keeping this as it's consistent with the consistent with the Department of Ecology's wetland guidance. Toxic is likely in the context of pollution generating surfaces which the Department of Ecology Stormwater Manual would require treatment of before discharging to a wetland.	NA
31.	Gregg Dohrn (18.01.070 Performance)	<i>Channelized flow shall be prohibited.</i>	This is consistent with the required mitigation measures and specifically called out in	NA

	Standards A.1.d: Page 22 of marked up CAO attached to Comment Letter)	“Prohibited in all instances? Does the manual permit it? If not, why not just defer to the manual, or is this intended to modify the manual?”		the wetland guidance from the Department of Ecology. We recommend keeping this language.	
32.	Gregg Dohrn (18.01.070 Performance Standards A.1.d: Page 22 of marked up CAO attached to Comment Letter)	<i>Eastern Washington Stormwater Manual</i>  “There are different iterations of the manual, add as adopted and implemented by the City of Cle Elum.”		The Ecology Stormwater Management Manual for Eastern WA is not specifically adopted by reference in the CEMC, but it is a state rule and as such does not require a specific reference in our code. However, we intend to adopt the manual and future updates by reference in the near future.	NA
33.	Gregg Dohrn (18.01.070 Performance Standards A.2: Page 23 of marked up CAO attached to Comment Letter)	<i>The following buffer widths have been established in accordance with the best available science.</i>  “Did the new BAS document result in changes to the buffers?”		yes and no. BAS refers to the Updated 2014 Version of the Washington State Wetland Rating System in Eastern Washington as required.	NA
32.	Gregg Dohrn (18.01.070 Performance Standards A. Table 18.01-2: Page 24 of marked up CAO attached to Comment Letter)	<b>Disturbance</b>	<b>Required Measures to minimize Impacts</b>	Correct	NA
		<i>Lights</i>	• <i>Direct lights away from wetland</i>		
		“This was listed as a general performance measure”			
33.	Gregg Dohrn	<b>Disturbance</b>	<b>Required Measures to minimize Impacts</b>	This Table is from the Wetland Guidance for CAO Updates,	NA

	(18.01.070 Performance Standards A. Table 18.01-2: Page 24 of marked up CAO attached to Comment Letter)	<i>Noise</i>	<ul style="list-style-type: none"> <li>For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish as additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland buffer</li> </ul>	Eastern Washington Version . The applicant shall follow these mitigation measures if they want to use buffer provided in Table 18.01-3	
		"How will this be determined? Does the BAS document identify that an additional 10' vegetative buffer will be adequate mitigation in all instances?"			
34.	Gregg Dohrn (18.01.070 Performance Standards A. Table 18.01-2: Page 24 of marked up CAO attached to Comment Letter)	<b>Disturbance</b>	<b>Required Measures to minimize Impacts</b>	This Table is from the Wetland Guidance for CAO Updates, Eastern Washington Version . The applicant shall follow these mitigation measures if they want to use buffer provided in Table 18.01-3. We do not recommend any changes.	NA
		<i>Toxic Runoff</i>	<ul style="list-style-type: none"> <li>Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered</li> </ul>		
		"Do the City regulations otherwise permit untreated toxic runoff?"			
35.	Gregg Dohrn (18.01.070 Performance Standards A. Table 18.01-2: Page 24 of marked up CAO attached to Comment Letter)	<b>Disturbance</b>	<b>Required Measures to minimize Impacts</b>	This Table is from the Wetland Guidance for CAO Updates, Eastern Washington Version . The applicant shall follow these mitigation measures if they want to use buffer provided in Table 18.01-3. We do not recommend any changes.	NA
		<i>Toxic Runoff</i>	<ul style="list-style-type: none"> <li>Establish covenants limiting use of pesticides within 150 ft of wetland</li> </ul>		
		"The City is typically not a party to covenants. Is the intent to limit use or prohibit use?"			
36.	Gregg Dohrn	<b>Disturbance</b>	<b>Required Measures to minimize Impacts</b>	This Table is from the Wetland Guidance for CAO Updates,	NA

	(18.01.070 Performance Standards A. Table 18.01-2: Page 24 of marked up CAO attached to Comment Letter)	<i>Toxic Runoff</i>	<ul style="list-style-type: none"> <li>• Apply integrated pest management</li> </ul>	<p>Eastern Washington Version . The applicant shall follow these mitigation measures if they want to use buffer provided in Table 18.01-3</p> <p>This means an effective and environmentally sensitive approach to pest management. We do not recommend any changes.</p>	
		"What does this mean?"			
37.	Gregg Dohrn (18.01.070 Performance Standards A. Table 18.01-2: Page 25 of marked up CAO attached to Comment Letter)	<b>Disturbance</b>	<b>Required Measures to minimize Impacts</b>	<p>This Table is from the Wetland Guidance for CAO Updates, Eastern Washington Version . The applicant shall follow these mitigation measures if they want to use buffer provided in Table 18.01-3.</p> <p>This does not preclude stormwater manual standards and specific to wetland buffers only.</p>	NA
		<i>Stormwater Runoff</i>	<ul style="list-style-type: none"> <li>• Prevent channelized flow from lawns that directly enters the buffer</li> </ul>		
		"Just from lawns, what about other channelized flows? Shouldn't the proposed project be designed in accordance with the Storm Water Manual adopted by the City?"			
38.	Gregg Dohrn (18.01.070 Performance Standards A.5: Page 26 of marked up CAO attached to Comment Letter)	<p>5. Increased wetland buffers: The Administrator shall increase wetland buffer zone widths, up to a maximum of two times the standard width in Table 18.01-1, for a development project on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values.</p> <p>"The City may..... Why limit the expansion to 2.5x, what if a larger buffer is required?"</p>		<p>If the City would like to be able to require more than 2.5x, then this can be removed.</p>	<p>5. Increased wetland buffers: The <del>Administrator</del><u>City</u> shall increase wetland buffer zone widths <del>, up to a maximum of two times the standard width in Table 18.01-1,</del> for a development project on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values. Such determination shall be based on site-specific and project-related</p>

				conditions which include, but are not limited to, the following circumstances:
39.	Gregg Dohrn (18.01.070 Performance Standards A.7: Page 26 of marked up CAO attached to Comment Letter)	<p><i>7. Building setback: A building setback line equal to the side yard setback requirement of the applicable zoning district is required from the landward edge of any wetland buffer. Minor Intrusions into the area of the building setback may be allowed if the Administrator determines that such intrusions will not negatively impact the wetland. The setbacks shall be shown on all site plans submitted with the application.</i></p> <p>“Why side yard? What if the front or rear of the building faces the wetland? What about zones that have no side yard setback? How will the City determine what constitutes a minor intrusion?”</p>	It appears that the OTC and PMU districts do not have a side yard setback. We could add a minimum side yard setback for those districts that do not have one. This is optional to begin with and not a requirement to have. AHBL Recommends 15-ft building setback as typical of other jurisdictions	<p>7. Building setback: A <u>15-foot building setback is required from the landward edge of any wetland buffer. line equal to the side yard setback requirement of the applicable zoning district is required from the landward edge of any wetland buffer.</u> Minor Intrusions into the area of the building setback may be allowed if the <u>Administrator-City</u> determines that such intrusions will not negatively impact the wetland. The setbacks shall be shown on all site plans submitted with the application.</p>
40.	Gregg Dohrn (18.01.070 Performance Standards A.8: Page 27 of marked up CAO attached to Comment Letter)	<p><i>8. Buffer Averaging: The City may allow modification of standard wetland buffer width in accordance with the report and the best available science on a case-by-case basis by averaging buffer widths. Averaging of buffer widths may only be allowed where a qualified wetlands professional demonstrates that:</i></p> <p>“This is a general comment that I've raised in other places, but it might be a good idea to insert in instances such as this, The City may allow, at its sole discretion..... Some qualified professionals may not be as committed to the protection of critical areas as the City is.”</p>	We do not oppose including this, however we do not think it is absolutely necessary as the first sentence of this paragraph states that "the City may allow...".	NA



41.	Gregg Dohrn (18.01.070 Performance Standards A.8.d: Page 27 of marked up CAO attached to Comment Letter)	<p><i>The minimum width of the buffer at any given point is at least seventy-five percent (75%) of the standards width, or twenty-five (25) feet, whichever is greater unless the applicant demonstrates an acceptable reasonable use as described in CEMC 18.01.090</i></p> <p>“Why limit buffer averaging to this if the following provision is allowed?”</p>	<p>This is a max wetland buffer averaging allowed in the Wetland Guidance for CAO Updates, Eastern Washington Version .</p> <p>We do not recommend any changes</p>	NA
42.	Gregg Dohrn (18.01.070 Performance Standards A.10: Page 27 of marked up CAO attached to Comment Letter)	<p><i>10. Wetland Compensatory Mitigation: Compensatory mitigation is required for all alterations to wetlands or their buffers, except for buffer averaging.</i></p> <p>“This could be confusing. Is it intended to preclude compensatory mitigation if buffer averaging is proposed?”</p>	<p>It may be more clear to have " except for City approved buffer averaging." We have no objections to this minor change..</p>	<p>10. Wetland Compensatory Mitigation: Compensatory mitigation is required for all alterations to wetlands or their buffers, except for <a href="#">City approved</a> buffer averaging.</p>
43.	Gregg Dohrn (18.01.070 Performance Standards A.11.a: Page 28 of marked up CAO attached to Comment Letter)	<p><i>a. Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions.</i></p> <p>“What about wetland values?”</p>	<p>This is from the Wetland Guidance for CAO Updates, Eastern Washington Version .</p> <p>We do not recommend any changes.</p>	NA
44.	Gregg Dohrn (18.01.070 Performance Standards A.11.b: Page 28 of marked up CAO attached to Comment Letter)	<p><i>b. Compensatory mitigation plans shall be consistent with Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans--Version 1, (Ecology Publication #06-06- 011b, Olympia, WA, March 2006 or as revised), and Selecting Wetland Mitigation Sites Using a Watershed Approach (Eastern Washington) (Publication #10-06-07, November 2010).</i></p>	<p>This is from the Wetland Guidance for CAO Updates, Eastern Washington Version . The City may opt to revise the last reference to "November 2010, or as revised." No other changes or recommended.</p>	<p>b. Compensatory mitigation plans shall be consistent with Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans--Version 1, (Ecology Publication #06-06- 011b, Olympia, WA, March 2006 or as revised), and Selecting Wetland Mitigation Sites Using a Watershed Approach</p>

		“or as subsequently updated and adopted by the City.”		(Eastern Washington) (Publication #10-06-07, November 2010 <u>or as revised</u> ).
45.	Gregg Dohrn (18.01.070 Performance Standards A.11.d.i: Page 28 of marked up CAO attached to Comment Letter)	<i>i. Restoring and/or rehabilitating filled or altered wetlands to their original or near-original condition.</i>  “Original, or pre-development condition?”	pre-development. We feel that this is clear, but the City could "pre-development or near pre-development condition" if desired.	i. Restoring and/or rehabilitating filled or altered wetlands to their <del>original-pre-development</del> or near <del>pre-development-original</del> condition.
46.	Gregg Dohrn (18.01.070 Performance Standards A.11.k: Page 28 of marked up CAO attached to Comment Letter)	<i>k. Mitigation ratios for wetland buffer impacts: To mitigate impacts to function and value of buffers, a minimum buffer ratio of 1:1 (alteration area: mitigation area) is required.</i>  “See previous comment,”	Not sure what previous comment.	NA
47.	Gregg Dohrn (18.01.070 Performance Standards C.1.a: Page 31 of marked up CAO attached to Comment Letter)	<i>a. The proposed development will not cause contaminants to enter the aquifer and will not significantly adversely affect the recharging of the aquifer.</i>  “Refer to previous comments. Why would the City allow contaminants anywhere?”	See above response.	NA
48.	Gregg Dohrn (18.01.070 Performance Standards C.1.c: Page 31 of marked up CAO attached	<i>c. The proposed development must be designed and constructed in accordance with applicable storm water management standards.</i>	See discussion above regarding the City's adopted stormwater manual.	NA

	to Comment Letter)	“Why not refer to the Storm Water Manual adopted and implemented by the City?”		
49.	Gregg Dohrn (18.01.070 Performance Standards C.1.d: Page 31 of marked up CAO attached to Comment Letter)	<p><i>d. Impervious coverage of the lot shall be minimized</i></p> <p>“The entire city has been designated a CARA. Does this provision require all lot coverage to be minimized? If so, how is this determined. There are lot coverage standards applicable in each zoning district, why wouldn't those apply? Is this provision necessary?”</p>	<p>As noted in the CARA Designation section, each site in the city is presumed to be in the CARA unless a report is completed that states otherwise.</p> <p>Multiple sources cite the entire City as within a CARA. Also adopted in the 2019 Comprehensive Plan, so this is consistent.</p>	NA
50.	Gregg Dohrn (18.01.070 Performance Standards C.2: Page 31 of marked up CAO attached to Comment Letter)	<p><i>2. When located within an area of medium or high aquifer susceptibility, aboveground/underground storage tanks or vaults for the storage of the hazardous substances, animal wastes, sewage sludge, fertilizers, or other chemical or biological hazards or dangerous wastes as defined in Chapter 173-303 WAC, or any other substances, solids, or liquids in quantities identified by Kittitas County Public Health, or any other substances, solids, or liquids in quantities identified by Kittitas County Public Health, consistent with WAC 173-303, as a risk to groundwater quality, shall be designated and constructed so as to:</i></p> <p>“Why wouldn't the City require the following provisions city-wide?”</p>	Refer to CARA designation.	NA

51.	Gregg Dohrn (18.01.070 Performance Standards C.3: Page 32 of marked up CAO attached to Comment Letter)	<p><i>3. The Administrator may grant a wavier from one or more of the above requirements (in 3 a through g) upon a finding that the aboveground storage activity would not create a significant risk to groundwater quality.</i></p> <p>“Why would the City want to grant a waiver from these requirements?”</p>	This gives the City flexibility in an unforeseen situation and is up to the administrator to determine. We do not recommend any changes.	NA
52.	Gregg Dohrn (18.01.070 Performance Standards C.4: Page 32 of marked up CAO attached to Comment Letter)	<p><i>4. The use of fertilizers, herbicide, pesticides, or other chemicals for vegetation management within critical aquifer recharge areas shall adhere to the best management practices impacts to water quality and water supply. Where the application of such chemicals covers five (5) or more acres, a mitigation plan shall be required pursuant the regulations listed below.</i></p> <p>“There aren't many parcels in the city greater than 5 acres. Why limit BMPs to these parcels, if warranted on smaller ones?”</p>	This section required mitigation plan for use of chemicals on lots greater than 5 acres. This is because the amount of chemicals used over 5 acres would be greater than 1 acre. If the City would like, they could require mitigation plans for use of all fertilizers, herbicides, pesticides, or other chemical application to vegetation even for small lot single-family homes, but that seem unfeasible.	NA
53.	Gregg Dohrn (18.01.070 Performance Standards C.5.a: Page 32 of marked up CAO attached to Comment Letter)	<p><i>5. The following development activities, when proposed in medium or high susceptibility critical aquifer recharge areas, have the potential to adversely affect groundwater quality and/or quantity and may only be allowed subject to the City's review and approval of a special hydrogeological assessment prepared by a qualified professional:</i></p> <p><i>a) Vehicle repair, servicing and salvaging facilities; provided that the facility must be</i></p>	Vehicle repair, servicing, and salvaging facilities is allowed with an approved special hydrological assessment provided that these facilities are over impermeable pads within a covered structure. We do not recommend that the City assume that there is no potential risk to a CARA because a facility is covered	NA

		<p><i>conducted over impermeable pads and within a covered structure capable or withstanding normally expected weather conditions.</i></p> <p>“Something isn't quite right here. Does vehicle repair conducted over an impermeable surface within a covered structure have the potential to adversely affect ground water and therefore require a hydrological assessment?”</p>	and on a pad. Toxic chemicals could still runoff or other mitigation measures could be recommended in the report.	
54.	Gregg Dohrn (18.01.070 Performance Standards C.6: Page 33 of marked up CAO attached to Comment Letter)	<p><i>6. State and Federal Regulations: The uses listed below shall be conditioned as necessary to protect critical aquifer recharge areas in accordance with the applicable state and federal regulations.</i></p> <p>“Only to protect CARAs, or anywhere in the city?”</p>	Refer to CARA designations.	NA
55.	Gregg Dohrn (18.01.070 Performance Standards D.1.a: Page 35 of marked up CAO attached to Comment Letter)	<p><i>a. Stream buffer widths are established to protect the integrity, functions and values of all streams that meet the criteria for Type S, F or N (Np and Ns) waters. Buffer widths have been determined in accordance with the best available science and are measured horizontally from the ordinary high-water mark.</i></p> <p>“Did the new BAS document result in revisions to these buffers?”</p>	Yes to conform with City's SMP and ecology recommendations.	NA
56.	Gregg Dohrn (18.01.070 Performance Standards D.1.b: Page 35 of marked	<p><i>b. Wildlife buffer widths are established to protect the integrity, functions, and values of all listed and/or priority wildlife species. Buffer widths have been determined in accordance with the best available science.</i></p>	This section pertains to wildlife buffers not stream buffers.	NA

	up CAO attached to Comment Letter)	<i>The city shall require a 100-foot buffer from the documented present listed and or priority wildlife species.</i>  “This is confusing. How does this relate to the buffers in the table?”		
57.	Gregg Dohrn (18.01.070 Performance Standards D.1.d: Page 35 of marked up CAO attached to Comment Letter)	<i>d. No clearing of vegetation or land disturbances shall be allowed within the wildlife habitat conservation area or associated terrestrial buffer area without review by an approved biologist and development of an appropriate mitigation plan.</i>  “How about, without written authorization from the City?”	This does not preclude the City from authorizing the clearing and grading. The City may change to state" without an approved mitigation plan and written authorization from the City."	No clearing of vegetation or land disturbances shall be allowed within the wildlife habitat conservation area or associated terrestrial buffer area without <u>an approved review by an approved biologist and development of an appropriate mitigation plan and written authorization from the City.</u>
58.	Gregg Dohrn (18.01.070 Performance Standards D.1.f: Page 36 of marked up CAO attached to Comment Letter)	<i>f. Buffer condition: Fish and wildlife habitat conservation area buffers shall be maintained in a predominantly well-vegetated and undisturbed condition. Alterations that are not associated with an allowed use or development shall be prohibited.</i>  “How about, no alterations shall occur without written authorization from the City.”	We are okay with this update.	Buffer condition: Fish and wildlife habitat conservation area buffers shall be maintained in a predominantly well-vegetated and undisturbed condition. <u>No alterations shall occur without written authorization from the City</u> <del>Alterations that are not associated with an allowed use or development shall be prohibited.</del>
59.	Gregg Dohrn (18.01.070 Performance Standards D.1.g: Page 36 of marked up CAO attached to Comment Letter)	<i>g. Multiple buffers: in the event that buffers for any fish habitat conservation areas or other critical areas are contiguous or overlapping, the landward-most edge of all such buffers shall apply</i>	We are okay with moving this below the wildlife buffer widths.	Text rearranged/moved to below wildlife buffer widths.

		“Isn't this a general performance standard that should be listed up front? Also insert, as determined by the City.”		
60.	Gregg Dohrn (18.01.070 Performance Standards D.1.i: Page 36 of marked up CAO attached to Comment Letter)	<p><i>i. Buffer averaging: The City may allow modification of standard fish and wildlife habitat conservation area buffer in accordance with an approved critical area report on a case-by-case basis. With buffer averaging, the buffer width is reduced in one location and increased in another location to maintain the same overall buffer area. Proposals for buffer averaging shall not require compensatory mitigation in the following conditions are met:</i></p> <p>“With buffer averaging, the buffer width may be reduced in one location and increased in another location to maintain the same overall buffer area, based on a finding that there is no net loss in the function or value of the buffer.”</p>	We are okay updating this section. It should be noted though that a no net loss in the function or value of the buffer is listed as a condition that is required to be met.	Buffer averaging: The City may allow modification of standard fish and wildlife habitat conservation area buffer in accordance with an approved critical area report on a case-by-case basis. With buffer averaging, the buffer width is reduced in one location <u>to maintain the same overall buffer area provided there is no net loss in the function or value of the buffer.</u> <del>and increased in another location to maintain the same overall buffer area.</del> Proposals for buffer averaging shall not require compensatory mitigation in the following conditions are met:
61.	Gregg Dohrn (18.01.070 Performance Standards D.1.i: Page 36 of marked up CAO attached to Comment Letter)	<p><i>i. Buffer averaging: The City may allow modification of standard fish and wildlife habitat conservation area buffer in accordance with an approved critical area report on a case-by-case basis. With buffer averaging, the buffer width is reduced in one location and increased in another location to maintain the same overall buffer area. Proposals for buffer averaging shall not require compensatory mitigation in the following conditions are met:</i></p>	This could cause confusion. This implies that the City could require compensatory mitigation for buffer averaging which negates the purpose of buffer averaging. We do not recommend any changes.	NA

		“may not require compensatory mitigation”		
62.	Gregg Dohrn (18.01.070 Performance Standards D.1.1.iii: Page 37 of marked up CAO attached to Comment Letter)	<p><i>iii. Fills, when authorized by the adopted shoreline master program, shall not adversely impact anadromous fish or their habitat or shall mitigate any unavoidable impacts, and shall only be allowed for a water-dependent use.</i></p> <p>“Refer to my previous comment, do these regulations apply to all critical areas in the City, or just critical areas outside of shoreline jurisdictional areas? If it is the later, then this provision should be deleted.”</p>	We recommend removing the "when authorized by the adopted shoreline master program". This is probably unnecessary to state and a little confusing. If fill were proposed within a stream regulated by the City's SMP, then the CAO within the SMP would control. However, this statement still applies to streams that are not regulated by the SMP.	iii. Fills, <del>when authorized by the adopted shoreline master program,</del> shall not adversely impact anadromous fish or their habitat or shall mitigate any unavoidable impacts, and shall only be allowed for a water-dependent use.
63.	Gregg Dohrn (18.01.070 Performance Standards E.1.a: Page 39 of marked up CAO attached to Comment Letter)	<p><i>a. All structures and other improvements shall be located on the buildable portion of the site out of the area of flood hazard. Where necessary buildings may be elevated.</i></p> <p>“Does this mean that buildings cannot be elevated? What is the buildable portion of a site?”</p>	Residential buildings may be elevated, but no other structures. This is to limit potential development.	NA
64.	Gregg Dohrn (18.01.070 Performance Standards E.1.b: Page 39 of marked up CAO attached to Comment Letter)	<p><i>b. Utilities shall either be located three or more feet above the base flood elevation (BFE), or be engineered to the City of Cle Elum Engineers requirements appropriate for the conditions.</i></p> <p>“Does this mean if elevated, City standards don't have to be met?”</p>	This pertains to utilities only.	NA
65.	Gregg Dohrn	<p><i>d. All new construction and substantial improvements shall be anchored to prevent</i></p>	Yes. The building official said yes, anchoring is required.	NA



	(18.01.070 Performance Standards E.1.d: Page 39 of marked up CAO attached to Comment Letter)	<i>flotation, collapse, or lateral movement of the structure.</i>  "Is anchoring required in all instances?"		
66.	Gregg Dohrn (18.01.070 Performance Standards E.1.f: Page 39 of marked up CAO attached to Comment Letter)	<i>f. Modification of stream channels shall be avoided.</i>  "Will the City permit modifications to stream channels?"	This can be removed.	<del>f. Modification of stream channels shall be avoided.</del>
67.	Gregg Dohrn (18.01.070 Performance Standards E.1.g: Page 39 of marked up CAO attached to Comment Letter)	<i>g. In areas with base flood elevations (but a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.</i>  "What about areas without base flood elevations?"	Typo: This is meant to be "within."	g. In areas with <u>in</u> base flood elevations (but a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.
68.	Gregg Dohrn (18.01.070 Performance Standards F.1:	<i>1. The following general standards apply to geologically hazardous areas:</i>	We are fine with this change.	1. The following general standards apply to <u>proposed development activities within or near</u> geologically hazardous areas:

	Page 40 of marked up CAO attached to Comment Letter)	“Do we mean to say that these performance standards apply to proposed development activities within or near geologically hazardous areas?”		
69.	Gregg Dohrn (18.01.070 Performance Standards F.1.c: Page 40 of marked up CAO attached to Comment Letter)	<i>c. Are designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than the pre-development conditions:</i>  “What if the pre-development conditions are hazardous?”	Edit text to end sentence after mitigated.	c. Are designed so that the hazard to the project is eliminated or mitigated <del>to a level equal to or less than the pre-development conditions:</del>
70.	Gregg Dohrn (18.01.070 Performance Standards F.1.d: Page 40 of marked up CAO attached to Comment Letter)	<i>d. Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetations.</i>  “What if a geotechnical report determines that is detrimental?”	We suggest changing "shall" to "should".	Structures and improvements <del>shall</del> <u>should</u> be located to preserve the most critical portion of the site and its natural landforms and vegetations.
71.	Gregg Dohrn (18.01.070 Performance Standards F.1.e: Page 40 of marked up CAO attached to Comment Letter)	<i>e. Structures and improvements shall minimize alterations to the natural contour of the slope, and foundations shall be tiered where possible to conform to existing topography; and</i>  “How is this determined?”	This appears to be guidance rather than a mandate. The terms minimize and where possible don’t mandate the slope protection point, so really, this is up to the applicant, and could be reviewed by the Building Official when a building permit is submitted.	NA
72.	Gregg Dohrn (18.01.070 Performance Standards F.1.f:	<i>f. Development shall designed to minimize impervious surfaces within the critical area and critical area buffer.</i>	By the City as appropriate.	NA

	Page 40 of marked up CAO attached to Comment Letter)	“How is this determined and how does it relate to lot coverage standards?”		
73.	Gregg Dohrn (18.01.070 Performance Standards F.1.g: Page 40 of marked up CAO attached to Comment Letter)	<p><i>g. A proposed development cannot be approved if it is determined by the geotechnical report that either the proposed development or adjacent properties will be at risk of damage from the geologic hazard, or that the project will increase the risk of occurrence of the hazard, and there are no adequate mitigation measures to alleviate the risks.</i></p> <p>“What if the City has reason to disagree with the report? What about may be denied based on a finding by the City that.....”</p>	We don't disagree with this change.	<p><i>g. A proposed development cannot be approved if it is determined by <u>the City, following review of the geotechnical report,</u> that either the proposed development or adjacent properties will be at risk of damage from the geologic hazard, or that the project will increase the risk of occurrence of the hazard, and there are no adequate mitigation measures to alleviate the risks</i></p>
74.	Gregg Dohrn (18.01.070 Performance Standards F.2.b: Page 41 of marked up CAO attached to Comment Letter)	<p><i>b. The buffer may be reduced to a minimum of 10 feet when a qualified professional demonstrate to the Director's satisfaction that the reduction will adequately protect the proposed development, adjacent developments and uses, and the subject critical area;</i></p> <p>“Based on a finding by the City that ....”</p>	We agree to change the language to "based on a finding by the City following review of the geotechnical report recommendations that the reduction.."	<p><i>b. The buffer may be reduced to a minimum of 10 feet <u>based on a finding by the City following review of the geotechnical report recommendations that the</u> <del>when a qualified professional demonstrate to the Director's satisfaction that the</del> reduction will adequately protect the proposed development, adjacent developments and uses, and the subject critical area;</i></p>
75.	Gregg Dohrn (18.01.070 Performance Standards F.2.c: Page 41 of marked up CAO attached	<p><i>c. The buffer may be increased where the Director determines a larger buffer is necessary to prevent risk of damage to proposed and existing development;</i></p> <p>“based on a finding by the City that.....”</p>	Same comment as above. We will reword this statement.	<p><i>c. The buffer may be increased where <u>based on a finding by the City following review of the geotechnical report</u> <del>the Director</del> determines a larger buffer is necessary to prevent</i></p>

	to Comment Letter)			risk of damage to proposed and existing development;
76.	Gregg Dohrn (18.01.070 Performance Standards F.3: Page 41 of marked up CAO attached to Comment Letter)	<p><i>3. A building setback of 20-feet shall be provided from all edges of the geological hazard area buffers. The building setback may be reduced when a qualified professional demonstrates to the Director's satisfaction that the reduction will adequately protect the proposed development, adjacent developments and uses, and the subject critical area.</i></p> <p>“based on a finding by the City that.....”</p>	Same comment as above. We will reword this statement.	<p>3. A building setback of 20-feet shall be provided from all edges of the geological hazard area buffers. The building setback may be reduced <u>based on a finding by the City following review of the geotechnical report recommendations that the when a qualified professional demonstrates to the Director's satisfaction that the</u> reduction will adequately protect the proposed development, adjacent developments and uses, and the subject critical area.</p>
77.	Gregg Dohrn (18.01.070 Performance Standards F.3: Page 41 of marked up CAO attached to Comment Letter)	<p><i>3. A building setback of 20-feet shall be provided from all edges of the geological hazard area buffers. The building setback may be reduced when a qualified professional demonstrates to the Director's satisfaction that the reduction will adequately protect the proposed development, adjacent developments and uses, and the subject critical area.</i></p> <p>“This language seems preferable to the language in a previous section that referred to the side yard setback. I see that the building setback is increased from 15' to 20', is this based on the BAS document?”</p>	15' is a building setback that we've seen other jurisdictions use, but the City may increase or decrease this.	No change

78.	Gregg Dohrn (18.01.070 Performance Standards F.4: Page 41 of marked up CAO attached to Comment Letter)	4. Alterations of an erosion or landslide hazard area and/or buffer may only occur for activities for which a hazards analysis is submitted and certifies that:  “based on a finding by the City that.....”	Same responses to comments above. We will reword this statement.	4. Alterations of an erosion or landslide hazard area and/or buffer may only occur for activities for which a hazards analysis is submitted <u>and based on findings by the City following review of the geotechnical report and certifies</u> that:
79.	Gregg Dohrn (18.01.070 Performance Standards F.6: Page 41 of marked up CAO attached to Comment Letter)	6. On-site sewage disposal systems, including drain fields, shall be prohibited within the erosion and landslide hazard areas and related buffers.  “Does the City permit on-site sewage disposal systems?”	In rare circumstances, replacement septic may be permitted. However, new septic systems are not permitted.	NA
80.	Gregg Dohrn (18.01.080 Exemptions: Page 42 of marked up CAO attached to Comment Letter)	<i>The following developments, activities and associated uses shall be exempt from the provisions of this chapter, provided that they are otherwise consistent with the provisions of other local, state, and federal laws and requirements:</i>  “may be determined by the City to be exempt”	We are okay with either version.	The following developments, activities and associated uses <del>shall</del> <u>may</u> be exempt from the provisions of this chapter, provided that they are otherwise consistent with the provisions of other local, state, and federal laws and requirements:
81.	Gregg Dohrn (18.01.080 Exemptions D.: Page 43 of marked up CAO attached to Comment Letter)	D. Forest Practices Regulated by the State. Forest practices regulated and conducted in accordance with provisions of Chapter 79.06 RCW and forest practices regulations, title 222 WAC, are exempt, except for conversions to forestry uses.  “WHAT IS THE INTENT OF THIS PROVISION AND THE SPECIFIC CITATION THAT IT IS	Forest practices are exempt and are regulated through RCW 76.09, the Forest Practices Act. We will change this to RCW 76.09.	D. Forest Practices Regulated by the State. Forest practices regulated and conducted in accordance with provisions of Chapter <del>79.06</del> <u>76.09</u> RCW and forest practices regulations, title 222 WAC, are exempt, except for conversions to forestry uses.

		BASED ON? IS IT THE CITY'S INTENT TO EXEMPT FOREST PRACTICES FROM COMPLYING WITH THE CITY'S CRITICAL AREA REGULATIONS?"		
82.	Gregg Dohrn (18.01.085 Notice and Financial securities A.: Page 43 of marked up CAO attached to Comment Letter)	<p><i>A. Notice. The owner of any property containing critical areas or buffers on which a development project is submitted shall file for record with Kittitas County a notice approved in form by the city.</i></p> <p>"Are there words missing?"</p>	<p>No, but it is an awkward wording, we admit.</p> <p>We could revise.</p>	<p>A. Notice. The owner of any property containing critical areas or buffers on which a development project is submitted shall file for record with Kittitas County <u>notice of said critical areas or buffers in a format approved</u> <del>a notice approved in form</del> by the city.</p>
83.	Gregg Dohrn (18.01.090 Reasonable use C.: Page 45 of marked up CAO attached to Comment Letter)	<p><i>C. A request for a reasonable use exception shall be made to the City of Cle Elum and shall be processed as a Type III application according to the provisions in CEMC 17.100 "quasi-judicial review of applications." The request shall include a critical areas report, including a mitigation plan, if necessary; and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy. the city planner shall prepare a recommendation to the city's planning commission based on review of the submitted information, a site inspection, and the proposal's ability to comply with reasonable use exception criteria identified above.</i></p> <p>"How permits and approvals are processed should be addressed in one location, currently it is in Title 17. This is a good</p>	<p>In our experience, reasonable use provisions are kept within the CAO and not typically contained elsewhere in the City's code. Reasonable use exceptions are a very specific permit that are only used in the context of critical areas. We recommend keeping this language in Chapter 18.01.</p>	<p>NA</p>

		example of why these regulations should be in a unified code, and not scattered about the CEMC. What if the City amends the process for processing type 3 applications. At a minimum, all provisions following the first sentence should be deleted.”		
84.	Gregg Dohrn (18.01.090 Reasonable use D.: Page 45 of marked up CAO attached to Comment Letter)	<i>D. The Planning Commission shall review and decide upon the request for reasonable use, and shall approve, approve with conditions, or deny the request based on the proposal’s ability to comply with the reasonable use exception criteria identified above.</i>  “This should be deleted. Reasonable use exceptions are highly legalistic, and should be made by a professional hearing examiner with input from the City Attorney.	We will note this in the document to revisit when other proposed changes are made to our Zoning Title.	NA
85.	Gregg Dohrn (18.01.100 Enforcement B.: Page 46 of marked up CAO attached to Comment Letter)	<i>B. Site Inspections. The land use administrator, or his or her designee, is authorized to make site inspections and take such actions as necessary to enforce this chapter. The land use administrator shall present proper credential and make a reasonable effort to contact any property owner before entering onto private property.</i>  “The City is authorized..... and shall make a reasonable effort.....”	Text will be amended to reflect Dohrn comments	B. Site Inspections. The <del>land-use administrator, or his or her designee,</del> City is authorized to make site inspections and take such actions as necessary to enforce this chapter. The <del>land-use administrator</del> City shall present proper credential and make a reasonable effort to contact any property owner before entering onto private property.
86.	Gregg Dohrn (18.01.100 Enforcement C.2: Page 46 of marked up CAO attached	<i>2. All development work shall remain stopped until a restoration plan has been approved by the city. Such a plan shall be prepared by a qualified professional. The city may, at the violator’s expense, seek expert advice in determining the adequacy of the plan.</i>	Noted. This appears to be more of a fee structure issue than code, but we can revise if necessary.	NA

	to Comment Letter)	<i>Inadequate plans shall be returned to the application or violator for revision and resubmittal.</i>		
		“This is a good example of a previous point raised about peer reviews of technical documents.”		
87.	Gregg Dohrn (18.01.100 Enforcement D.1: Page 46 of marked up CAO attached to Comment Letter)	<i>1. Authority. Local government shall have the authority to serve upon a person a cease and desist order if an activity being undertaken on shorelines of the state is, upon a reasonable belief, in violation of RCW 90.58 or this master program.</i>	We agree - this needs to be reworded to apply to the CAO, not the SMP.	1. Authority. <del>Local government</del> The <u>City</u> shall have the authority to serve upon a person a cease and desist order if an activity being undertaken <del>on shorelines of the state is in critical areas,</del> upon a reasonable belief, in violation of RCW 90.58 or this <del>master program</del> <u>critical areas ordinance.</u>
88.	Gregg Dohrn (18.01.110 Nonconforming activities: Page 47 of marked up CAO attached to Comment Letter)	<i>A regulated activity that was approved prior to the passage of this chapter and to which significant economic resources have been committed pursuant to such approval but which does not conform to this chapter may be continued subject to the following:</i>	This seems consistent with non-conforming uses in Title 17. However, it will be provided to the City Attorney for review.	NA
		“How and who determines this? Also, legal non-conforming uses have a right to continue and can only be made to cease and desist in very limited circumstances. This should be discussed with the City Attorney.”	No changes at this time.	
89.	Lori White – Department of Ecology (Page 1 of Comment Letter	Paragraph 3 states Sources of best available science are included in “Best Available Science For the City of Cle Elum, Washington” dated October 28, 2020, or amended. We	BAS is available on the City’s website. We will also send a copy in response to this comment letter	BAS file sent 03/05



	received 2/11/2021)	would ask for a copy of the BAS document created for the City for review and comment. We have not reviewed this document and are unfamiliar with the contents, which might give further light on the approaches you have taken		
90.	Lori White – Department of Ecology (Page 1 of Comment Letter received 2/11/2021)	<p><i>“Enhancement” means actions performed within an existing degraded shoreline, critical area, and/or buffer to intentionally increase or augment one or more ecological functions or values of the existing area. Enhancement actions include, but are not limited to, increasing plant diversity and cover; increasing wildlife habitat and structural complexity (snags, woody debris); installing environmentally compatible erosion controls; removing non-indigenous plant or animal species; or removing human-made structures or fill that are degrading ecological functions or values.</i></p> <p>“Enhancement paragraph - the second half of the last sentence; for wetlands this segment could fall within the Restoration mitigation type and not enhancement.”</p>	The enhancement activity ' human-made structures or fill that are degrading ecological functions or values. ' can be removed from this definition	“Enhancement” means actions performed within an existing degraded shoreline, critical area, and/or buffer to intentionally increase or augment one or more ecological functions or values of the existing area. Enhancement actions include, but are not limited to, increasing plant diversity and cover; increasing wildlife habitat and structural complexity (snags, woody debris); installing environmentally compatible erosion controls; <del>or removing non-indigenous plant or animal species; or removing human-made structures or fill that are degrading ecological functions or values.</del>
91.	Lori White – Department of Ecology (Page 1 of Comment Letter received 2/11/2021)	Page 23, 3rd paragraph; The first sentence states buffers in Table 18.01-1 can be used if both following criteria are met, but does not state those criteria.	We will remove sentence that states 'if both of the following criteria are met:' and restructure	a. For wetlands that score 6 points or more for habitat function, the buffers in Table 18.01-1 can be used. <del>if both of the following criteria are met:</del>
92.	Lori White – Department of Ecology (Page 1 of	Page 23, Item 2(b); Ecology’s guidance specifies that if an applicant is unable to provide a corridor they may use the reduced	Agreed- Update language as recommended	<del>b</del> c. If an applicant chooses not to apply the mitigation measures in Table 18.01-2, or <del>is unable</del> chooses

	Comment Letter received 2/11/2021)	buffers. Therefore, the intent is: if there is no possibility to provide the corridor then they are not penalized. If it's possible to implement the corridor, but the applicant chooses not to, then the full buffer width would be required. So suggest change "unable" to "chooses not", which is less restrictive.		<u>not</u> to provide a protected corridor where available, then Table 18.01-3 must be used.
93.	Lori White – Department of Ecology (Page 1 of Comment Letter received 2/11/2021)	Ecology recommends using more recent buffer widths and updated tables. For example, in our more updated tables the Habitat Score of 5 column is grouped with the lower Habitat range of 3-4 column.	We will wait for updated comments on this after Ecology's review of BAS	Table has been updated to reflect most recent guidance from Ecology. The BAS is also being reviewed to ensure the most appropriate guidance from Ecology is used in the BAS report.
94.	Lori White – Department of Ecology (Page 2 of Comment Letter received 2/11/2021)	Buffer Width Table 18.01-1; does not take various wetland types into account, such as forested wetlands. Buffer Table 18.01-3 does. If the lack of additional wetland types is because they are not located in the area, please make the two tables consistent with each other by removing non-existing wetland types for the second table.	As above	Addressed in new tables
95.	Lori White – Department of Ecology (Page 2 of Comment Letter received 2/11/2021)	Buffer Width Table 18.01-1; does not take various wetland types into account, such as forested wetlands. Buffer Table 18.01-3 does. If the lack of additional wetland types is because they are not located in the area, please make the two tables consistent with each other by removing non-existing wetland types for the second table.	As above	Addressed in new tables
96.	Lori White – Department of Ecology (Page 2 of Comment Letter	Buffer Table 18.01-1; Cat III wetlands with a Habitat Score of 5 has a buffer width lower than our guidance recommends. It is listed as 75 ft and should be 90 ft.	As above	Addressed in new tables

	received 2/11/2021)			
97.	Lori White – Department of Ecology (Page 2 of Comment Letter received 2/11/2021)	Buffer Table 18.01-3; The majority of the buffer widths in this table are significantly lower than our guidance recommends. See mark up for width recommendations.	As above	Addressed in new tables
98.	Lori White – Department of Ecology (Page 2 of Comment Letter received 2/11/2021)	Page 26, item 5, Increased wetland buffers; Ecology recommends adding: when near geologically hazardous areas or adjacent to slopes of 30% or more.	Can add an additional circumstance: c) Wetland sites in geologically hazardous areas or where adjacent land has slopes greater than 30%	<u>c. Wetland sites in geologically hazardous areas or where adjacent land has slopes greater than 30%.</u>
99.	Lori White – Department of Ecology (Page 2 of Comment Letter received 2/11/2021)	Page 27, Item 8(d); Buffer Averaging, Ecology recommends including the following language: Total buffer area after averaging must equal the area required without averaging.	Add sentence to end of 8(d) as recommended by Ecology	d. The minimum width of the buffer at any given point is at least seventy-five percent (75%) of the standards width unless the applicant demonstrates an acceptable reasonable use as described in CEMC 18.01.090. <u>Total buffer area after averaging must equal the area required without averaging.</u>
100.	Lori White – Department of Ecology (Page 2 of Comment Letter received 2/11/2021)	Page 29, last two sentences of top paragraph; Currently, there is not a wetland mitigation bank that services this area nor is there an ILF program in place. Consider removing or qualifying the statement for in the future if these programs are established.	We will be amend the text to take this into account and include terminology ‘if available’	h. Mitigation ratios for wetland impacts: Mitigation ratios shall be used when impacts to wetlands cannot be avoided, as specified in Table 4.2-2. The first number specifies the acreage of replacement wetlands and the second specifies the acreage of wetlands altered. Compensatory mitigation shall

				<p>restore, create, rehabilitate or enhance equivalent or greater wetland functions. The ratios shall apply to mitigation that is in-kind, is on-site, is the same category, is timed prior to or concurrent with alteration, and has a high probability of success. <del>If available, these ratios</del> do not apply to remedial actions resulting from unauthorized alterations; greater ratios shall apply in those cases. These ratios do not apply to the use of credits from a certified wetland mitigation bank or in-lieu fee program. When credits from a certified bank or in-lieu fee program are used, replacement ratios should be consistent with the requirements of the bank's/program's certification.</p>	
<b>101.</b>	Lori White – Department of Ecology (Page 2 of Comment Letter received 2/11/2021)	Page 29 Table 18.01-4 Wetland Mitigation Ratios for Unavoidable Wetland Impacts, Ecology recommends replacing the 6:1 ratio in the Rehabilitation column for Cat I bog/Natural Heritage Sites with Case by Case. Preservation was not previously mentioned in the document. Consider either removing the column or changing all the ratios to Case by Case. Preservation ratios are dependent on both the impact, the site chosen, and if any other mitigation type is used in conjunction with Preservation.	We will amend as recommended by Ecology	Category and Type of Wetland	Rehabilitation
				Category 1: Bog, Natural Heritage Site	<del>6:1 case-by-case</del>

102.	Lori White – Department of Ecology (Page 2 of Comment Letter received 2/11/2021)	Page 30, item k; The sentence beginning with, “This ratio...” could be a separate paragraph. Impacts to a wetland buffer need to be mitigated at a 1:1 ratio. A mitigation site needs to have a complete buffer surrounding it. The buffer is to be appropriate for the category of wetland being created, restored, etc.	This paragraph only deals with buffer impacts. There is nothing the paragraph that implies that this section applies to a buffer associated with a wetland mitigation area.	NA
103.	Lori White – Department of Ecology (Page 2 of Comment Letter received 2/11/2021)	Page 30, item L; Currently there is not a bank that services this area nor am I aware of an established ILF program. Consider removing, but keeping the portion that discusses establishing one.	We will amend as recommended by Ecology	Mitigation banking and in-lieu fee (ILF) mitigation: The City may <del>approve</del> <u>establish a</u> mitigation banking and <u>ILF program</u> <del>/or in-lieu fee mitigation</del> as a form of compensatory mitigation for wetland and habitat conservation area impacts. <del>If established, the bank and when the provisions of this Program require mitigation and when the use of a bank/ILF Program shall be will provide equivalent or greater replacement of critical area functions and values when compared to conventional permittee responsible mitigation. Banks and ILF Programs shall only be used when they provide significant ecological benefits including long-term conservation of critical areas, important species, habitats and/or habitat linkages, and when they are consistent with the City comprehensive plan and create a viable alternative to the piecemeal mitigation for individual project</del>

				<del>impacts to achieve ecosystem-based conservation goals. Banks and ILF Programs shall be established and certified in accordance with applicable federal and state mitigation rules.</del>
104.	Lori White – Department of Ecology (Page 2 of Comment Letter received 2/11/2021)	Page 31, item M; Ecology recommends 10 years of monitoring for sites that have woody species planted. 5 years would be the minimum amount of monitoring required.	We will amend the paragraph to include sentence 'This period may be longer for more fragile mitigation proposals such as those containing woody vegetation.'	m. Monitoring: Mitigation monitoring shall be required for a period necessary to establish that performance standards have been met, but not for a period less than five years. <u>This period may be longer for more fragile mitigation proposals such as those containing woody vegetation.</u> The project mitigation plan shall include monitoring elements that ensure certainty of success for the project’s natural resource values and functions. If the mitigation goals are not obtained within the initial five-year period, the applicant remains responsible for restoration of the natural resource values and functions until the mitigation goals agreed to in the mitigation plan are achieved.
105.	Lori White – Department of Ecology (Page 3 of Comment Letter received 2/11/2021)	Page 43, Item B; Ecology appreciates the City adding the following statement: “including those vegetation removal activities necessary for fire reduction.”	Thanks	NA

<p><b>106.</b></p>	<p>Elizabeth Torrey – Washington Dept. of Fish &amp; Wildlife (Page 1 of Comment Letter received 02/16/2021)</p>	<p>18.01.020 Definitions</p> <p>We request that you add the following definitions to this section:</p> <p>Riparian: An adjective meaning alongside a waterbody: stream, river, lake, pond, bay, sea, and ocean. Riparian areas are sometimes referred to by different names: riparian ecosystems, riparian habitats, riparian corridors, or riparian zones.</p> <p>Riparian Management Zone (RMZ): A delineable area defined in a land use regulation; often synonymous with riparian buffer. For the purposes of this document, we define the RMZ as the area that has the potential to provide full riparian functions. In many forested regions of the state this area occurs within one 200-year site-potential tree height measured from the edge of the stream channel. In situations where a channel migration zone is present, this occurs within one site-potential tree height measured from the edges of the channel migration zone. In non-forest zones the RMZ is defined by the greater of the outermost point of the riparian vegetative community or the pollution removal function, at 100-feet.</p>	<p>Definition can be added to CAO</p>	<p><u>“Riparian” means alongside a waterbody: stream, river, lake, pond, bay, sea, and ocean. Riparian areas are sometimes referred to by different names: riparian ecosystems, riparian habitats, riparian corridors, or riparian zones.</u></p> <p><u>Riparian Management Zone (RMZ) means a delineable area defined in a land use regulation; often synonymous with riparian buffer. For the purposes of this document, we define the RMZ as the area that has the potential to provide full riparian functions. In many forested regions of the state this area occurs within one 200-year site-potential tree height (SPTH) measured from the edge of the stream channel. In situations where a channel migration zone is present, this occurs within one site-potential tree height measured from the edges of the channel migration zone. In non-forest zones the RMZ is defined by the greater of the outermost point of the riparian vegetative community or the pollution removal function, at 100-feet.</u></p> <p><u>Site-Potential Tree Height means the average maximum height of the</u></p>
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		Site-Potential Tree Height: The average maximum height of the tallest dominant trees for a given age and site class.		<a href="#">tallest dominant trees for a given age and site class.</a>
107.	Elizabeth Torrey – Washington Dept. of Fish & Wildlife (Page 2 of Comment Letter received 02/16/2021)	<p>We request that you <u>amend</u> the following definitions as indicated:</p> <p>Channel migration zone: "Channel migration zone (CMZ)" means the area along a river <b>or stream</b> within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river or stream and its surroundings.</p> <p>Priority Habitat: "Priority habitat" means a habitat type with a unique or significant value to one (1) or more species <b>as identified by Priority Habitats and Species (PHS) maintained by WDFW.</b></p> <p><i>This definition has an incorrect WAC reference. The last sentence should be modified to read: "...fish and wildlife (WAC 173-26-020(28 30)).</i></p> <p>Priority Species: "Priority species" means species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. <b>Priority species are identified as such</b></p>	<p>Channel Migration Zone: Definition can be amended as requested if deemed appropriate by the City</p> <p>Priority Habitat: Definition can be amended as requested if deemed appropriate by the City The last sentence of the Priority Species definition will be amended to read 'A priority habitat may contain priority and/or non-priority fish and wildlife (WAC 173-26-020(30)).'</p> <p>Priority Species: Definition can be amended as requested and WAC reference updated</p> <p>Type F Waters: References to 'the department' will be replaced with 'the City' Statement on Crystal Creek can be removed</p>	<p>"Channel migration zone (CMZ)" means the area along a river <b>or stream</b> within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.</p> <p>"Priority habitat" means a habitat type with a unique or significant value to one (1) or more species <b><u>as identified by Priority Habitats and Species (PHS) maintained by Washington Department of Fish and Wildlife (WDFW).</u></b> An area classified and mapped as priority habitat must have one (1) or more of the following attributes: comparatively high fish or wildlife densities; comparatively high fish or wildlife species diversity; fish spawning habitat; important wildlife habitat; important fish or wildlife seasonal range; important fish or wildlife movement corridors; rearing and</p>



		<p><b>under Priority Habitats and Species (PHS) maintained by WDFW.</b> Priority species are those that meet any of the criteria listed in WAC 173-26-020(<del>29</del> 31).</p> <p>Type F Waters: <i>This definition appears to have been copy and pasted from DNR's Forest Practices rules. The source of this definition (DNR) should be referenced. Also, the definition, as written, contains references that need correction:</i></p> <ol style="list-style-type: none"> <li>1. ...“where such diversion is determined by the <del>department city</del> to be....”</li> <li>2. ... “The department city may allow additional harvest beyond the requirements of Type F Water designation provided the <del>department city</del> determines...”</li> </ol> <p><i>We suggest removing the statement that Crystal Creek is an F-type watercourse, because it is not the only F type watercourse in city limits.</i></p>		<p>foraging habitat; refuge; limited availability; high vulnerability to habitat alteration; unique or dependent species; or shellfish beds. A priority habitat may be described by its unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as oak woodlands or eelgrass meadows). A priority habitat may also be described by a successional stage (such as old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or non-priority fish and wildlife (WAC 173-26-020(<del>2830</del>)).</p> <p>"Priority species" means species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. <u>Priority species are identified as such under Priority Habitats and Species (PHS) maintained by WDFW.</u> Priority species are those that meet any of the criteria listed in WAC 173-26-020(<del>3129</del>).</p>
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				<p>1. ... where such diversion is determined by the <del>department-city</del> to be a valid ...</p> <p>2. ... The department may allow additional harvest beyond the requirements of Type F Water designation provided the <del>department-city</del> determines after...</p> <p><del>Crystal Creek is a Type F stream throughout its length in the City of Cle Elum.</del></p>
<p><b>108.</b></p>	<p>Elizabeth Torrey – Washington Dept. of Fish &amp; Wildlife (Page 2 of Comment Letter received 02/16/2021)</p>	<p>18.01.030(D): Frequently Flooded Areas: In this section, we recommend that the city investigate <a href="#">the First Street Flood Factor program</a> and include or reference this resource in this section as well. The combination of these resources will provide landowners and the Planning Department with a clearer picture of flood risks compared to only using the 1981 FEMA maps.</p> <p>In addition, we request that you <u>add</u> the following language to this section:  <del>The City of Cle Elum may use additional flood information that is more restrictive or detailed than that provided in the flood insurance study conducted by the Federal Emergency Management Agency (FEMA) to designate frequently flooded areas, including data on channel migration, historical data, high water marks, photographs of past</del></p>	<p>First Street Flood Factor is a foundation that created a flood tool. FEMA , WDFW, nor the City has control over the information use in the tool or how the tool may or may not change in the future. AHBL recommends that the City does not include First Street Flood Factor until it is recommended and approved by FEMA or WDFW as a regulatory tool.</p> <p>We have no concern with adding the recommended text after Floodways and Floodplains, because it allows City flexibility in the future.</p>	<p>D. Frequently flooded areas are those areas subject to at least a one percent or greater chance of flooding in any given year, or within areas subject to flooding due to high ground water. These areas include:</p> <ol style="list-style-type: none"> <li>1. Water-ways (streams, rivers, lakes, coastal areas, wetlands and areas where high ground water forms ponds on the ground surface). This includes Crystal Creek. Crystal Creek and ephemeral drainages identified by DNR and the Washington Department of Fish and Wildlife (WDFW).</li> <li>2. Floodways and Floodplains identified in the May 5, 1981 FEMA Flood Insurance Rate Map, and as subsequently revised and amended.</li> </ol>

		<p>flooding, location of restrictive floodways, maps showing future build-out conditions, maps that show riparian habitat areas, or similar information.</p>		<p><u>3. The City may use additional flood information that is more restrictive or detailed than that provided in the flood insurance study conducted by the Federal Emergency Management Agency (FEMA) to designate frequently flooded areas, including data on channel migration, historical data, high water marks, photographs of past flooding, location of restrictive floodways, maps showing future build-out conditions, maps that show riparian habitat areas, or similar information.</u></p>
<p>109.</p>	<p>Elizabeth Torrey – Washington Dept. of Fish &amp; Wildlife (Page 3 of Comment Letter received 02/16/2021)</p>	<p>18.01.030(F): Fish and Wildlife Habitat Conservation Areas: We request that you modify the following sections as indicated:</p> <p>3. State Priority Habitats and Areas Associated with State Priority Species. Priority Habitats and Species (PHS) are considered to be priorities for conservation and management. Priority PHS species require protective measures for their perpetuation due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance. Priority PHS habitats are those habitat types or elements with unique or significant value to a diverse assemblage of species. A priority PHS habitat may consist of a unique vegetation type or dominant plant species, a described successional stage,</p>	<p>We propose that the text is changed as follows:</p> <p>State Priority Habitats and Areas Associated with State Priority Species. Priority Habitats and Species (PHS) are considered to be priorities for conservation and management. PHS require protective measures for their perpetuation due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance. PHS habitats are those habitat types or elements with unique or significant value to a diverse</p>	<p>State Priority Habitats and Areas Associated With State Priority Species. Priority <del>habitats-Habitats</del> and <del>species-Species</del> (PHS) are considered to be priorities for conservation and management. <del>Priority-species</del>PHS require protective measures for their perpetuation due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance. <del>Priority-PHS</del> habitats are those habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described</p>

		or a specific structural element. Priority <b>Habitats</b> and <b>Species</b> are identified by the state Department of Fish and Wildlife.	assemblage of species. A priority PHS habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element. Priority Habitats and Species are identified by the state Department of Fish and Wildlife.	successional stage, or a specific structural element. Priority <b>habitats</b> <b>Habitats</b> and <b>species-Species</b> are identified by the state Department of Fish and Wildlife
<b>110.</b>	Elizabeth Torrey – Washington Dept. of Fish & Wildlife (Page 3 of Comment Letter received 02/16/2021)	18.01.050 Permitting  We request that you strike the word “significant” from the following sentence to eliminate ambiguity:  All applications for permits to conduct activities having a possible <b>significant</b> impact on critical areas that are located on or near a project site must identify the areas affected and make an estimate of the probable impact.	'We have no concerns removing "significant" from paragraph	All applications for permits to conduct activities having a possible <b>significant</b> impact on critical areas that are located on or near a project site must identify the areas affected and make an estimate of the probable impact.
<b>111.</b>	Elizabeth Torrey – Washington Dept. of Fish & Wildlife (Page 3 of Comment Letter received 02/16/2021)	18.01.055 Determination  We request that you amend the following sections as indicated:  18.01.055(A): Each development permit shall be reviewed to determine if the proposal is within a critical area or critical area buffer. City staff shall use maps and data maintained by the city <b>or maps and data maintained by the agency of expertise</b> and a site inspection if	18.01.055(A): Not applicable because the sentence has been removed as part of addressing another comment.  18.01.055(D): Sentence can be amended to include heading update to 'Fish and Wildlife Habitat Conservation Areas' an include vegetation plantings, large wood placement, etc.	D. Fish <b>and Wildlife</b> Habitat Conservation Area.  vi. Habitat enhancement ( <del>i.e.e.x.</del> , fish passage barrier removal), <b>vegetation plantings, large wood placements, etc.;</b>

		<p>appropriate.</p> <p>18.01.055(D): Fish <b>and Wildlife</b> Habitat Conservation Areas</p> <p>18.01.055(D)(2)(e)(vi): Habitat enhancement (<del>i.e.</del>, <b>ex. fish passage barrier removal, vegetation plantings, large wood placement, etc.</b>);</p> <p><i>All references of fish habitat conservation areas or wildlife habitat conservation should instead be referenced as “Fish and Wildlife Habitat Conservation Areas”. In addition, WDFW recommends splitting the 18.01.055 (D) section into sub-categories to clearly indicate which bullets relate to Fish Habitat Conservation Areas versus Wildlife Habitat Conservation Areas</i></p>	<p>We recommend changing references from 'Fish Habitat Conservation' to 'Fish and Wildlife Habitat Conservation Areas," We have looked at creating sub-categories, but with the change to "Fish and Wildlife Habitat Conservation Areas" it could lead to additional confusions. AHBL does not recommend sub-categories at this time.</p>	
<b>112.</b>	<p>Elizabeth Torrey – Washington Dept. of Fish &amp; Wildlife (Page 3 of Comment Letter received 02/16/2021)</p>	<p>18.01.060 New permits required for activities in critical areas</p> <p>18.01.060(C): <i>“In Fish and Wildlife Habitat Conservation Areas...” we request that you offer a definition of and/or reword the term “significantly degrade” to eliminate ambiguity.</i></p>	<p>We will review options of rewording this term with City attorney.</p>	NA
<b>113.</b>	<p>Elizabeth Torrey – Washington Dept. of Fish &amp; Wildlife (Page 4 of Comment Letter received 02/16/2021)</p>	<p>18.01.070 (D): Fish and Wildlife a Conservation Areas Performance Standards</p> <p>On PDF page 35 of the draft CAO, the text asserts that “buffer widths have been determined in accordance with the best available science and are measured</p>	<p>Based on the updated BAS, and conversations with WDFW, stream buffer width based on stream type is for all city streams except for crystal creek where Channel Migration Zone, Riparian Management Zone,</p>	<p>a. Stream buffer widths are established to protect the integrity, functions and values of all streams <u>classified according to WAC 222-16-030 based on <del>that meet the criteria for Type S, F or N (Np and Ns) waters. Buffer widths have been determined in accordance with the</del></u></p>

		<p>horizontally from the ordinary high-water mark”.</p> <p>However, the most current Best Available Science summarized in Volume 1 is clear that: 1) measurements should be taken from the CMZ, not the OHWL; 2) RMZs should be treated equally regardless of the typing of the waterbody they are adjacent to, and 3) RMZ widths should be determined by the SPTH 200 to preserve the functions and values of the riparian area.</p> <p>Therefore, we recommend that you modify this section as indicated:</p> <p>18.01.70(D)(1)(a): Stream buffer widths are established to protect the integrity, functions and values of all streams that meet the criteria for Type S, F or N (Np and Ns) waters. <del>Buffer Riparian Management Zone</del> widths have been determined in accordance with the best available science and are measured horizontally from the <del>ordinary high-water mark</del> channel migration zone. The width of the RMZ shall be determined based upon the Site Potential Tree Height at 200 years. On parcels where SPTH is not feasible due to site-specific limitations, buffer averaging, mitigation, and other creative measures may be permitted to ensure the functions and values of the RMZ are retained.</p> <p>WDFW has tools available to help guide those</p>	<p>and Site-Potential tree Height will be used).</p>	<p>best available science. <u>The City’s stream buffer widths are based on the specific Fish and Wildlife Conservation Areas as follows: <del>and are measured horizontally from the ordinary high-water mark.</del></u></p> <p>i. <u>Type S streams are Shorelines of the State that are regulated by the City’s Shoreline Master Program (SMP). The buffer widths for these streams are provided within the City’s SMP.</u></p> <p>ii. <u>Crystal Creek buffer width is the width of the Riparian Management Zone (RMZ) based on the Site-Potential Tree Height at 200 years (SPTH) measured horizontally from the Channel Migration Zone.</u></p> <p>iii. <u>All other WAC 222-16-030 classified streams, not located within the Shoreline Master Program Shoreline Jurisdiction, shall have stream buffers based on Stream Typing as detailed in Table 18.01-5, and measured horizontally from the ordinary high-water mark.</u></p>
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		decisions, including as this web map. WDFW would encourage further dialogue on how to use this tool to best implement riparian management zones.																						
114.	Elizabeth Torrey – Washington Dept. of Fish & Wildlife (Page 5 of Comment Letter received 02/16/2021)	<p>Table 18.01-5 <del>Stream-Buffer</del> Riparian Management Zone Requirements</p> <table border="1"> <thead> <tr> <th colspan="2">Stream Type Standard Buffer Riparian Management Zone Widths</th> </tr> </thead> <tbody> <tr> <td>Type S Waters of the State</td> <td>200 ft SPTH</td> </tr> <tr> <td>Type F</td> <td>50 ft</td> </tr> <tr> <td>Type Np</td> <td>25 ft</td> </tr> <tr> <td>Type Ns</td> <td>25 ft</td> </tr> </tbody> </table>	Stream Type Standard Buffer Riparian Management Zone Widths		Type S Waters of the State	200 ft SPTH	Type F	50 ft	Type Np	25 ft	Type Ns	25 ft	This updated BAS will be reviewed and section of CAO amended as necessary	<table border="1"> <thead> <tr> <th colspan="2">Stream Type Standard Buffer Width</th> </tr> </thead> <tbody> <tr> <td>Type S</td> <td><del>200 ft</del></td> </tr> <tr> <td>Type F</td> <td>50 ft</td> </tr> <tr> <td>Type Np</td> <td>25 ft</td> </tr> <tr> <td>Type Ns</td> <td>25 ft</td> </tr> </tbody> </table>	Stream Type Standard Buffer Width		Type S	<del>200 ft</del>	Type F	50 ft	Type Np	25 ft	Type Ns	25 ft
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115.	Elizabeth Torrey – Washington Dept. of Fish & Wildlife (Page 5 of Comment Letter received 02/16/2021)	18.01.70(D)(1)(b): <i>Please supply the Best Available Science being referenced in this section. Different species of wildlife benefit from various riparian widths as referenced in our 1997 guidelines. WDFW is uncertain which species of wildlife is being targeted with the 100-foot buffer proposed. A 100-foot width would be the minimum recommended width for some wildlife benefits, but many wildlife species need even larger riparian widths for functional habitat as referenced in our 1997 guidelines.</i>	BAS provided 3/10	BAS provided 3/10																				

<p><b>116.</b></p>	<p>Elizabeth Torrey – Washington Dept. of Fish &amp; Wildlife (Page 5 of Comment Letter received 02/16/2021)</p>	<p>18.01.70(D)(1)(e): <i>We recommend that you delete this section. Per the newest Best Available Science, differentiation of RMZ sizing based on water typing is not supported. A standard RMZ based off of SPTH 200 should be applied.</i></p>	<p>We do not recommend deleting this section because it allows the City flexibility for increasing Fish and Wildlife Habitat Conservation Areas. We have revised this section to be more clear on when the City could increase the buffers.</p>	<p>e. Increased buffers: <u>The City has the authority to increase stream and wildlife buffer widths when such buffers to protect PHS species utilizing the Fish and Wildlife Habitat Conservation Areas. This determination shall be supported by appropriate documentation from the Department of Ecology and Fish and Wildlife, showing that the increased buffer width is reasonably related to the protection of the fish and/or wildlife. The increased buffer distance may be limited to those areas that provide connectivity or are necessary to protect habitat functions. Increasing the buffer widths will only be done where necessary to preserve the structure, function and value of the habitat. If there is credible evidence of historic or current fish use within a non-Type S stream, the Administrator shall increase the non-Type S water buffer up to a maximum of two hundred (200) feet to protect fish habitat forming processes.</u></p>
<p><b>117.</b></p>	<p>Elizabeth Torrey – Washington Dept. of Fish &amp; Wildlife (Page 5 of Comment Letter received 02/16/2021)</p>	<p>18.01.70(D)(1)(i)(iv): The buffer averaging will not reduce stream or habitat functions or adversely affect <del>salmon or trout</del> fish and wildlife habitat;</p>	<p>Text can be amended to reflect suggested change</p>	<p>iv. The buffer averaging will not reduce stream or habitat functions or adversely affect <del>salmon or trout</del> fish and wildlife habitat;</p>



118.	Elizabeth Torrey – Washington Dept. of Fish & Wildlife (Page 5 of Comment Letter received 02/16/2021)	<p>18.01.70(D)(1)(l) Anadromous Fish Habitat Standards: <i>We recommend that you <u>add the following language to this section:</u></i></p> <p>18.01.70(D)(1)(L)(i)(e): <b>A Hydraulic Project Approval (HPA) permit from the Department of Fish and Wildlife is required before any work is performed which affects waters of the state and fish or fish habitat.</b></p>	We have no concerns about adding this language.	<u>(e): A Hydraulic Project Approval (HPA) permit from the Department of Fish and Wildlife is required before any work is performed which affects waters of the state and fish or fish habitat.</u>
119.	Elizabeth Torrey – Washington Dept. of Fish & Wildlife (Page 5 of Comment Letter received 02/16/2021)	18.01.70(D)(1)(p)(i): A map or maps indicating the Ordinary High Water Mark <b>and the Channel Migration Zone boundaries</b> ; the boundary of the habitat conservation areas; associated stream and wildlife habitat buffers <b>and the Site Potential Tree Height at 200 years</b> ; the width and length of all existing and reposed structures, utilities, roads, easements; wastewater and stormwater facilities; adjacent land uses, zoning districts and comprehensive plan designations;	We recommend requiring CMZ boundaries on the maps, but we don't recommend specifying that Site Potential Tree Height at 200 feet being called out specifically outside of the stream buffer, because the City will only require SPTH along Crystal Creek and it will already be included with the stream buffer.	i. A map or maps indicating the Ordinary High Water Mark <u>and Channel Migration Zone boundaries</u> ; the boundary of the habitat conservation areas; associated stream and wildlife habitat buffers; the width and length of all existing and reposed structures, utilities, roads, easements; wastewater and stormwater facilities; adjacent land uses, zoning districts and comprehensive plan designations;
120.	Elizabeth Torrey – Washington Dept. of Fish & Wildlife (Page 5 of Comment Letter received 02/16/2021)	<p>18.01.080 Exemptions</p> <p>We suggest that you add an additional exemption for habitat restoration and/or enhancement actions. An example of the language is as follows:</p> <p>E. Habitat restoration and enhancement. Low risk activities including vegetation planting, wood material placement, and other actions which benefit wildlife and Fish and Wildlife Habitat Conservation Areas are exempt.</p>	We agree with this addition and can make changes in CAO	<u>E. Habitat restoration and enhancement. Low risk activities including vegetation planting, wood material placement, and other actions which benefit wildlife and Fish and Wildlife Habitat Conservation Areas are exempt.</u>

121.	Elizabeth Torrey – Washington Dept. of Fish & Wildlife (Page 6 of Comment Letter received 02/16/2021)	<p>Best Available Science</p> <p>We request that the City of Cle Elum provide us with the list of Best Available Science resources which were used for the creation of and referenced throughout this draft CAO. WDFW has not reviewed this document and is unfamiliar with its contents.</p>	Provided 03/10	Provided 03/10
122.	Shane Early – DNR (Comment Letter/Email received 02/16/2021)	As part of the Washington State Department of Natural Resources Southeast Region Forest Practices (DNR-SE FP) staff, I would like to receive project notification emails regarding proposed changes to the critical areas ordinance.	Noted	NA