WOODLAND PLANNING COMMISSION AGENDA

Building & Planning Open House – 5:30 PM

Planning Commission Regular Meeting – 7:00 PM

THURSDAY NOVEMBER 17, 2016

Woodland City Council Chambers
200 E Scott Avenue, Woodland, Washington

CALL TO ORDER – 7:00 PM

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

- October 13, 2016 meeting minutes

WORKSHOP/DISCUSSION

- Critical Areas Ordinance Code Update
  - Staff Report
  - Draft Update

UPDATE

- Project status – Report

ADJOURN

cc: Post (City Hall Annex, Library, Post Office, City Hall)
City of Woodland website
Planning Commission (4)
City Council (7)
Mayor
Department Heads
City Administrator

WOODLAND PLANNING COMMISSION MINUTES

Planning Commission Regular Meeting – 7:00 PM

THURSDAY OCTOBER 13, 2016

Woodland City Council Chambers
200 E Scott Avenue, Woodland, Washington

CALL TO ORDER – 7:04 PM

Roll Call.
Present: David Simpson, Tel Jensen, Sharon Watt, Paula Bosel, Amanda Smeller (Not voting), Kasey Smith (Not voting).

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

- September 15, 2016 meeting minutes **Motion:** Minutes Approval, **Moved by** Sharon Watt, **Seconded by** Paula Bosel.
- Motion passed unanimously.

WORKSHOP/DISCUSSION

- Mayor/Planning Commission Discussion – Mayor Finn, staff and Commission discussed the future planning for the City and downtown area. Mayor Finn discussed the need for further growth/revenue generation and his desire to get everyone to focus in the same direction.

- Critical Areas Ordinance (Code Update)
  - Staff Report given by Amanda Smeller
  - Code Update discussed by Commission and staff. Amanda will update the code with changes as discussed and provide a clean copy at the next meeting in order to finalize.

- Planned Unit Residential Development (PURD) Ordinance Review – Ordinance discussed by Commission and Staff.

UPDATE

- Project status – Report given by Amanda Smeller

ADJOURN – 9:18pm

Staff Report: Critical Areas Ordinance Update

Date: November 10, 2016
To: Planning Commission
From: Amanda Smeller, Community Development Planner
Re: Critical Areas Ordinance Update

The Critical Areas Ordinance draft before the Planning Commission on November 17 will include comments from the Washington Department of Fish and Wildlife. Comments from the Department of Ecology have been addressed and worked into the draft as determined by the Commission during previous meetings. I have also corrected grammatical and spelling errors as pointed out during the October 13 meeting.

I have included the comments provided by WDFW, save for a very few comments that are required changes (some definitions, etc.). The yellow is changes made, and explanations for the change. The green highlights items that we need to discuss how to move forward with.

Chapter 15.08 - CRITICAL AREAS REGULATION

Sections:

15.08.010 - Purpose.

Pursuant to the requirements of the Growth Management Act of 1990 and as amended, RCW 36.70A, the city of Woodland hereby adopts the critical area ordinance to protect wetlands, areas with critical recharging effect on potable water, frequently flooded areas, geologically hazardous areas, and fish and wildlife habitat conservation areas.

The city finds that critical areas provide a variety of valuable biological and physical functions that benefit the city and its residents. Critical areas may also pose a threat to human safety and public and/or private property. The purpose of this chapter includes, but is not limited to, the following:

A. Protect the public health, safety, and welfare by preventing adverse impacts of development;

B. Preserve and protect critical areas by regulating development within and adjacent to critical areas;

C. Mitigate unavoidable impacts to critical areas by regulating alterations in and adjacent to environmentally sensitive areas;

D. Prevent adverse cumulative impacts to wetlands, streams, shoreline environments, and fish and wildlife habitat;

E. Protect the public and public resources and facilities from injury, loss of life, property damage or financial loss due to flooding, erosion, landslides, soils subsidence or steep slope failure;

F. Protect groundwater recharge capacity to the greatest extent practicable;

G. To strive for no net loss of the functions and values of regulated wetlands by requiring restoration and/or enhancement of degraded wetlands;

H. To designate and classify ecologically sensitive and hazardous areas and to protect these areas and their functions and values using the best available science, while also allowing for reasonable use of private property.

(Ord. 1069 § 1 (part), 2006)

15.08.020 - Authority.

As provided herein, the director is given the authority to interpret and apply, and responsibility to enforce this chapter to accomplish the stated purpose. The city may withhold, condition, or deny permits or approvals to ensure that the proposed action is consistent with this chapter.

(Ord. 1069 § 1 (part), 2006)

15.08.030 - Definitions.

Unless specifically defined below, words or phrases in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application. The following words, phrases and terms, as used in this chapter, shall have the following meaning ascribed to them, unless a different meaning clearly appears from the context.

“Accessory” means a use, building, or structure that is subordinate to and the use of which is incidental to that of the main activity, structure, building or use on the same lot or parcel. If an accessory structure is

attached to the main building by a common wall or roof, such accessory building shall be considered a part of the main building.

"Act" means the Growth Management Act (GMA).

"Adjacent" means any activity located:

1. On a site immediately adjoining a critical area;
2. A distance one-half mile or less from a bald eagle nests;
3. Within a floodway, floodplain or channel migration zones;
4. Within the required critical area buffer;
5. A distance of two hundred feet or less upland of a stream wetland or water body;
6. A distance of two hundred feet or less from a critical aquifer recharge area.

"Agricultural uses (existing and ongoing)" means farming, horticulture, aquaculture, irrigation or grazing of animals, and those activities involved in the production of crops or livestock, for example:

1. The operation and maintenance of farm and stock ponds or drainage ditches;
2. The operation and maintenance of all irrigation systems and their components;
3. Changes between agricultural activities (i.e., crops to grazing, farming to fallow);
4. Fencing activity;
5. Normal maintenance, repair, or operation of existing agricultural-related structures, facilities, or improved areas;
6. Preparation of the land for agricultural uses.

An operation ceases to be ongoing when the area on which it is conducted is converted to a nonagricultural use or has lain idle for five years, unless the idle land is registered in a federal or state soils conservation program.

"Alteration" means any human-induced action that impacts the existing condition of a critical area. Alterations include, but are not limited to, grading, filling, channelizing, dredging, clearing (vegetation), construction, compaction, excavation or any other activity that changes the character of the critical area. Alteration does not include walking (except trails), passive recreation, fishing, or other similar activities.

"Anadromous fish" means fish that spawn and rear in freshwater and mature in the marine environment. While Pacific salmon die after their first spawning, adult char (bull trout) can live for many years, moving in and out of saltwater and spawning each year. The life history of Pacific salmon and char contains critical periods of time when these fish are more susceptible to environmental and physical damage than at other times. The life history of salmon, for example, contains the following stages: upstream migration of adults, spawning, inter-gravel incubation, rearing, smoltification (the time period needed for juveniles to adjust their body functions to live in the marine environment), downstream migration, and ocean rearing to adults.

"Applicant" means any person or business entity, which applies for a development proposal, permit, or approval, who is the owner of the land on which the proposed activity would be located, a contract purchaser, or authorized agent of such a person.

"Aquifer" means a geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

"Aquifer recharge area" means areas which, due to the presence of certain soils, geology, and surface water, act to recharge groundwater by percolation. (Also critical aquifer recharge area.)

“Average grade level” means the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed building or structure. In the case of structures to be built over water, average grade level shall be the elevation of the ordinary high water

mark. Calculation of the average grade level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure.

"Base flood" means a flood event having a one percent chance of being equaled or exceeded in any given year, also referred to as the one-hundred-year flood.

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

"Best management practices" means The schedules of activities, prohibitions of practices, maintenance procedures, and structural or managerial practices approved by Ecology that, when used singly or in combination, control, prevent or reduce the release of pollutants and other adverse impacts to waters of the State.

"Buffer" means an area adjacent to a critical area that functions to avoid loss or diminution of the ecologic functions and values of the critical area. Specifically, a buffer may:

1. Preserve the ecologic functions and values of a system including, but not limited to, providing microclimate conditions, shading, input of organic material, and sediments; room for variation and changes in natural wetland, river, or stream characteristics; providing for habitat for lifecycle stages of species normally associated with the resource;

2. Physically isolate a critical area such as a wetland, river, or stream from potential disturbance and harmful intrusion from surrounding uses using distance, height, visual, and/or sound barriers, and generally including dense native vegetation, but also may include human-made features such as fences and other barriers; and

3. Act to minimize risk to the public from loss of life, well-being, or property damage resulting from natural disasters such as from landslide or flooding.

"City" means the city of Woodland, Washington.

"Clearing" means the cutting or removal of vegetation or other organic plant material by physical, mechanical, chemical, or any means other than vegetation management. This does not include landscape maintenance or pruning consistent with accepted horticultural practices, which does not impair the health or survival of the trees or native vegetation.

"Conservation easement" means an easement on a particular piece of real property that restricts or eliminates the building of structures or other improvements and activities that would result in encroachment onto a designated buffer.

"Critical areas" means and includes: aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, and wetlands, as defined in RCW 36.70A and this chapter.

"Critical habitat" means a specific geographical area that possess physical or biological features that are essential to the conservation of federally listed species. These designated areas may require special management considerations or protection.

"Cumulative impact or effect" means under National Environmental Policy Act (NEPA) regulations, the incremental environmental impact or effect of the action together with the impacts of past, present, and reasonably foreseeable future actions, regardless of what agency or person undertakes such other actions (40 CFR 1508.7). Under Endangered Species Act Section 7 regulations, the effects of future state or private activities not involving federal activities, that are reasonably certain to occur within the action area of the federal action subject to consultation (50 CFR 402.02).

"Degraded" means to have suffered a decrease in naturally occurring functions and values due to activities undertaken or managed by persons on or off a site.

"Department" means the City of Woodland Community Development Department.

"Developable area" means a site or portion of a site that may be utilized as the location of development, in accordance with the rules of this chapter.

"Development" means any man-made change including, but not limited to, buildings or other structures, filling, grading, disturbance of vegetation, excavation or drilling, and the subdivision of property. Any activity upon the land that requires a building or use permit.

"Director" means the Community Development Director, or designee.

"Enhancement" means actions performed to improve the condition or functions and values of an existing viable wetland or buffer, or fish and wildlife habitat area or buffer. Enhancement actions include, but are not limited to, increasing plant diversity, increasing fish and wildlife habitat, installing environmentally compatible erosion controls, removing invasive plant species such as milfoil and loosestrife.

"Erosion" means the process whereby wind, rain, water, and other agents natural or man-made mobilize and transport particles.

"Erosion hazard areas" means areas that contain soil types which, according to Soil Conservation Service's Classification System, may experience severe to very severe erosion process.

"Excavation" means the mechanical removal or displacement of earth material.

"Fill material" means a deposit of earth or other natural or man-made material placed by artificial means.

"Filling" means the act of placing fill material (on any critical area) including temporary stockpiling of fill material.

"Fish and wildlife habitat conservation areas" means areas necessary for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created as designated by WAC 365-190-080(5).

Commented [AS1]: The changes in yellow are those recommended by WDFW.

Fish and wildlife habitat conservation areas, as specified in WMC 15.08.700, includes the following areas:

1. Areas with which endangered, threatened and sensitive species have a primary association;
2. Habitats and species of local importance. This includes Washington Department of Fish and Wildlife priority habitats and species, candidate species, and any species identified by the City of Woodland or Clark or Cowlitz Counties;
3. State-designated endangered, threatened, and sensitive species are those species native to the state of Washington that are in danger of extinction, threatened to become endangered, vulnerable, or are declining and are likely threatened to become endangered or threatened, without cooperative management. The Washington State Department of Fish and Wildlife maintains the most current listing and should be consulted for current listing status.
4. Commercial and recreational shellfish areas;
5. Smelt spawning areas;
6. Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat;
7. Water of the state (refer to WAC 222-16-030);
8. Lakes, ponds, streams and rivers planted with game fish by a governmental or tribal entity; and
9. State natural area preserves and natural resource conservation areas.

Fish and wildlife habitat conservation areas do not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of, and are maintained by, a port district or an irrigation district or company. Such watercourses must be entirely artificial and have not been constructed in a natural watercourse altered by humans.

Commented [AS2]: WDFW: We can support this exclusion for watercourses that are entirely artificial, unless they exist in a natural watercourse that has been altered by humans.

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

"Flood protection elevation" means the elevation that is one foot above the base flood elevation.

"Floodplain" Synonymous with one hundred-year floodplain and that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the act.

"Floodway" means the area that either:

1. Has been established in federal emergency management agency flood insurance rate maps or floodway maps; or

2. Consists of those portions of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually.

"Frequently flooded areas" means areas in the floodplain subject to a one percent or greater chance of flooding in any given year (one-hundred-year floodplain).

"Geologically hazardous area" means areas that, because of their susceptibility to erosion, sliding, earthquake, or other geological events, may not be suited to siting commercial, residential, or industrial development due to health, safety or environmental standards. Types of geologically hazardous areas include erosion, landslide, seismic, mine, and volcanic.

"Geologist" means a person who has earned a degree in geology from an accredited college or university or a person who has equivalent educational training and has experience as a practicing geologist and who is state-licensed as a geologist.

"Geotechnical assessment" means an assessment prepared by a geologist or geotechnical engineer licensed with the state of Washington as a civil engineer, which evaluates the site conditions and the effects of a proposal and identifies mitigating measures necessary to insure that the risks associated with geologic hazards will be eliminated.

"Geotechnical engineer" means a practicing geotechnical engineer licensed as a professional civil engineer with the state of Washington with experience in landslide and slope stability evaluation.

"Grading" means the movement or redistribution, including excavation or fill, of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.

"Groundwater" means that part of the subsurface water that is in the saturated zone. All waters that exist beneath the land surface or beneath the bed of any stream, lake or reservoir, or other body of surface water within the boundaries of this state, including underground streams, from which wells, springs, and groundwater runoff are supplied, whatever may be the geological formation or structure in which such water stands or flows, percolates or otherwise moves.

"Growth Management Act (GMA)" means RCW 36.70A and as amended.

"Habitat conservation areas" means areas designated as fish and wildlife habitat conservation areas.

"Hazard tree" means a tree with a high probability of falling due to a debilitating disease, a structural defect, a root ball more than fifty percent exposed, or having been exposed to wind throw within the past ten years, and where there is a residence or residential accessory structure within a tree length of the base of the trunk, or where the top of a bluff or steep slope is endangered. Where not immediately apparent to the review authority, the danger tree determination shall be made after review of a report prepared by a certified arborist or forester.

Commented [AS3]: This definition provided by WDFW.

"High intensity land use" means and includes land uses which are associated with high levels of human disturbance or substantial wetland habitat impacts including, but not limited to, commercial, urban, industrial, and residential uses (more than one unit/acre).

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

"In-kind compensation" means to replace wetlands with substitute wetlands whose characteristics closely approximate those destroyed or degraded by a regulated activity.

"Intermittent streams" means a stream which flows only at certain times when it receives water from springs or from some other source, such as melting snow or rain.

"Invasive" means a nonnative plant or animal species that either:

1. Causes or may cause significant displacement in range, a reduction in abundance, or otherwise threatens, native species in their natural communities;

2. Threatens or may threaten natural resources or their use in the state;

3. Causes or may cause economic damage to commercial or recreational activities that are dependent upon state waters; or

Threatens or harms human health (RCW 77.08.010(28)))."Isolated wetlands" means those wetlands that are outside of and not contiguous to any one-hundred-year floodplain of a lake, river, or stream, and have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water.

"Lake" means a naturally existing or artificially created body of standing water, including reservoirs, twenty acres or greater in size, which exists on a year-round basis and occurs in a depression of land or expanded part of a stream.

"Landslide hazard areas" means areas that are potentially subject to risk of mass movement due to a geologic landslide resulting from a combination of geologic, topographic, and hydrologic factors. These areas are typically susceptible to landslides because of a combination of factors including: bedrock, soil, slope gradient, slope aspect (exposure), geologic structure, groundwater, or other factors.

"Lot" means a platted or unplatted parcel of land of record either unoccupied, occupied, or to be occupied by a principal use or structure together with such yards and open spaces.

"Low-intensity land use" means and includes land uses which are associated with low levels of human disturbance or low wetland habitat impacts and are compatible with the natural environment, including, but not limited to, forestry (cutting of trees only), unpaved trails, low-intensity open space and similar low-impact uses.

“Merchantable Trees” means live trees, 6 inches in diameter at breast height (DBH) and larger, unless documentation of current, local market conditions are submitted and accepted by the local jurisdiction indicating non-marketability.

"Mitigation" means avoiding, minimizing or compensating for adverse critical areas impacts. Mitigation is listed in descending order of preference:

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

Mitigation for individual actions may include a combination of the above measures.

Mitigation, in-kind - Replacement of shoreline resources, such as wetlands or surface water systems with substitute wetlands or surface water systems whose characteristics and functions and values closely approximate those destroyed or degraded by a regulated activity.

Mitigation, out-of-kind - Replacement of shoreline resources, such as surface water systems or wetlands with substitute surface water systems or wetlands whose characteristics do not closely approximate those destroyed or degraded by a regulated activity.

Mitigation plan - A plan that outlines the activities that will be undertaken to alleviate project impacts. The plan generally contains: a site and project description; an environmental assessment of the functions and values of the site that will be impacted; a description of the proposed mitigation; the goals and objectives of the proposed mitigation; the performance standards against which success will be measured; monitoring of and reporting on the success of the mitigation; and a contingency plan in case of failure.

"Moderate-intensity land use" means and includes land uses that have a moderate level of disturbance and impact to wetlands including, but not limited to, residential (less than one unit/acre), paved trails, utility corridor or right-of-way and moderate-intensity open space (parks with biking, jogging, etc.).

"Monitoring" means evaluating the impacts of development proposals on the biological, hydrologic and geologic elements of a system and assessing the performance of required mitigation measures. Monitoring is achieved through the collection and analysis of data by various methods for the purposes of understanding and documenting changes in natural ecosystems and features, including the gathering of baseline data.

"Native vegetation" means plant species that are indigenous to the area and which reasonably could have been expected to naturally occur on the site. Native vegetation does not include noxious weeds.

"Natural disasters" means events caused by natural processes resulting in the loss of life and/or property, including flooding, landslides, erosion, volcanic eruptions, or seismic events.

"No net loss of function" means the maintenance of existing ecological processes and functions.

1. No net loss of ecological functions on the level of the City - that the ecological processes and functions are maintained within a watershed or other functional catchment area. Regulations may result in localized cumulative impacts or loss of some localized ecological processes and functions, as long as the ecological processes and functions of the system are maintained. Maintenance of system ecological processes and functions may require compensating measures that offset localized degradation.

2. On a project basis - that permitted use or alteration of a site will not result in on-site or off-site deterioration of the existing condition of ecological functions that existed prior to initiation of use or alterations as a direct or indirect result of the project.

3. No net loss is achieved both through avoidance and minimization of adverse impacts as well as compensation for impacts that cannot be avoided. Compensation may include on-site or off-site mitigation of ecological functions to compensate for localized degradation.

"Off-site compensation" means to replace wetlands away from the site on which a wetland has been impacted by a regulated activity.

"On-site compensation" means to replace wetlands on the site on which a wetland has been impacted by a regulated activity.

"Ordinary high water line" means the mark on the shores of all waters that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual and so long continued in ordinary years, as to mark upon the soil or vegetation a character distinct from that of the abutting upland; provided, that in any area where the ordinary high water line cannot be found the ordinary high water line adjoining saltwater shall be the line of mean higher high water and the ordinary high water line adjoining freshwater shall be the elevation of the mean annual flood.

"Passive recreation" means facilities designed and in accordance with an approved critical area report, including:

1. Walkways and trails, provided that those pathways that are generally parallel to the perimeter of the wetland shall be located in the outer twenty-five percent of the buffer area;
2. Wildlife viewing structures; and
3. Fishing access areas.

"Permeability" means the capacity of an aquifer or confining bed to transmit water. It is a property of the aquifer and is independent of the force causing movement.

"Pond(s)" means a naturally existing or artificially created body of standing water under twenty acres which exists on a year-round basis and occurs in a depression of land or expanded part of a stream.

"Priority habitat" means a habitat type of elements with unique or significant value to one or more species as classified by the Washington Department of Fish and Wildlife. A priority habitat may consist of unique vegetation type of dominant plant species, a described successional stage, or a specific structural element (WAC 173-26-020(34)).

"Priority species" means fish and wildlife species requiring protective measures and/or management guidelines to ensure their perpetuation, as determined by the Washington Department of Fish and Wildlife's priority habitats and species list, as now exists or is hereafter amended.

Commented [AS4]: The changes here in yellow are provided by WDFW. Matches their definitions.

"Qualified professional" means a person with experience, education, and/or professional degrees and training pertaining to the critical area in question as described for each critical area below. Qualified professionals will also possess experience with performing site evaluations, analyzing critical area functions and values, analyzing critical area impacts, and recommending critical area mitigation and restoration. The City shall require professionals to demonstrate the basis for qualifications and shall make final determination as to qualifications. Demonstration of qualifications may include, but not be limited to, professional certification(s) and/or recognition through publication of technical papers or journals. Qualified professionals for each critical area are as follows:

1. Wetlands. Biologist or wetland ecologist who has a bachelor's degree in biological science from an accredited college or university, at least two years of experience under the supervision of a practicing wetland professional, and experience delineating wetlands, preparing wetland reports, conducting function assessments, and developing and implementing mitigation plans.

2. Fish and Wildlife Habitat Areas. Biologist/wildlife biologist/stream ecologist/habitat ecologist who has a bachelor's degree in biological, wildlife and/or stream ecology science from an accredited college or university and has at least two years of experience under the supervision of a practicing professional biologist or ecologist.

3. Geologically Hazardous Areas.

a. Geologist - a person who has a bachelor's degree in geologic sciences from an accredited college or university and at least five years of professional experience as described in WAC 308-15-040 and is licensed as a professional geologist in the State of Washington. The licensed geologist shall have demonstrated experience analyzing geologic hazards and preparing reports for the relevant type of hazard.

b. Hydrogeologist - a licensed geologist in the State of Washington with a specialty license in hydrogeology meeting the requirements of WAC 308-15-057. The licensed hydrogeologist shall have demonstrated experience analyzing hydrogeologic hazards and preparing reports for the relevant type of hazard.

c. Engineering geologist - a licensed geologist in the State of Washington with a specialty license in engineering geology meeting the requirements of WAC 308-15-055. The licensed engineering geologist shall have demonstrated experience analyzing geologic hazards and preparing reports for the relevant type of hazard.

d. Geotechnical engineer - a person who has a bachelor's degree in civil engineering from an accredited college or university and at least five years of experience as a practicing geotechnical engineer, and is a registered professional engineer in the State of Washington (meeting the requirements of RCW 18.43.040). The licensed engineer shall have demonstrated experience conducting geotechnical investigations, analyzing geologic hazards, and preparing reports for the relevant type of hazard.

4. Critical Aquifer Recharge Areas. Hydrogeologist - a licensed geologist in the State of Washington with a specialty license in hydrogeology meeting the requirements of WAC 308-15-057. The licensed hydrogeologist shall have demonstrated experience analyzing critical aquifer recharge areas.

5. Frequently Flooded Areas.

a. Hydrogeologist - a licensed geologist in the State of Washington with a specialty license in hydrogeology meeting the requirements of WAC 308-15-057. The licensed hydrogeologist shall have demonstrated experience analyzing hydrogeologic hazards and preparing reports for the relevant type of hazard.

b. Fluvial geomorphologist - a person who has a bachelor's degree in earth sciences from an accredited college or university with applicable course work in fluvial geomorphology and at least five years of professional experience in fluvial geomorphology.

c. Hydraulics engineer - a person who has a bachelor's degree in civil engineering from an accredited college or university and at least five years of experience as a practicing hydraulics engineer, and is a registered professional engineer in the State of Washington (meeting the requirements of RCW 18.43.040). The licensed engineer shall have demonstrated experience conducting, analyzing and preparing reports for hydraulic investigations.

"Restoration" means the actions taken to return a wetland or other critical area to a state in which its stability, functions and values approach its naturally occurring unaltered state as closely as possible.

"Riparian" is a Washington Department of Fish and Wildlife priority habitat that is the area adjacent to flowing or standing freshwater aquatic systems.

Commented [AS5]: Items highlighted in yellow were provided by WDFW. These definitions match WDFW's definitions in the PHS List.

"Riparian habitat" encompasses the area beginning at the ordinary high water mark and extends to that portion of the terrestrial landscape that is influenced by, or that directly influences, the aquatic ecosystem. In riparian systems, the vegetation, water tables, soils, microclimate, and wildlife inhabitants of terrestrial ecosystems are often influenced by perennial or intermittent water. Simultaneously, adjacent vegetation, nutrient and sediment loading, terrestrial wildlife, as well as organic and inorganic debris influence the biological and physical properties of the aquatic ecosystem. Riparian habitat includes the entire extent of the floodplain and riparian areas of wetlands that are directly connected to stream courses or other freshwater. Table 15.08.730(1) outlines riparian widths.

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

"SEPA" means the Washington State Environmental Policy Act, Chapter 43.21C RCW.

"Significant" means, for the purposes of this chapter, something must be an important aspect or quality inherent in some larger whole. The aspect or quality must be measurable by a factual and scientific standard. The burden of establishing that something is significant must be borne by the party asserting it. A significant adverse impact occurs if a change eliminates some important aspect or quality of the larger whole. The party asserting a significant impact has the burden of:

1. Identifying the aspects or qualities of the larger whole;
2. Identifying the inherent important aspects or qualities;
3. Identifying a factual and scientific standard to be used for measuring the impact;

4. Establishing in a measurable fashion that an important aspect or quality will be impacted by such change.

"Significant vegetation removal" means the removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.

"Slope" means an inclined earth surface, the inclination of which is expressed as the ratio of horizontal distance to vertical distance. In these regulations, slopes are generally expressed as a percentage; percentage of slope refers to a given rise in elevation over a given run in distance. A forty percent slope, for example, refers to a forty-foot rise in elevation over a distance of one hundred feet.

"Site" means any parcel or combination of contiguous parcels, or right-of-way, or combination of contiguous rights-of-way under the applicant's ownership or control where the proposed project occurs.

"Snag" means any dead, partially dead, or defective (cull) tree at least 6.5 feet tall and 20 inches in diameter at breast height.

Commented [AS6]: Provided by WDFW.

"Species of local importance" means those species that are of local concern due to their population status or their sensitivity to habitat manipulation or that are game species.

Commented [AS7]: WDFW says what is the method of designation?

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

"Stream" means water contained within a channel, either perennial or intermittent, and classified according to WAC 222-16-030 or WAC 22-16-031 as listed under "water typing system." Streams do not include irrigation ditches, waste ways, drains, outfalls, operation spillways, channels, stormwater runoff facilities or other wholly artificial watercourses, except those that directly result from the modification to a natural watercourse.

"Structure" means a permanent or temporary edifice or building or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels (ships, boats, barges, or any other floating craft which are designed and used for navigation and do not interfere with the normal public use of water)(WAC 173-27-030(18)).

"Surface water" means water that flows across the land surface, in channels, or is contained in depressions in the land surface, including but not limited to ponds, lakes, rivers, and streams.

"Unavoidable and necessary impacts" means impacts for a use that, if not allowed, would deny all reasonable economic use of the land. The applicant shall demonstrate losses to all reasonable economic use. Such unavoidable impacts shall be mitigated.

"Upland" is generally described as the dry land area above and landward of the OHWM.

"Wetland edge" means the boundary of a wetland as delineated, based on the definitions contained in this chapter.

"Wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, bogs,

marshes, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation facilities, wastewater treatment facilities, farm ponds, landscape amenities, or wetlands created after July 1, 1990, that were unintentionally created as a result of road, street, or highway construction. However, wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversions of wetlands.

"Wetlands rating system" means wetlands shall be rated according to the Washington State Wetland Rating System for Western Washington, Department of Ecology, Publication #14-06-029, or as revised.

(Ord. 1069 § 1 (part), 2006)

15.08.040 - Relation to other regulations.

This critical areas ordinance shall apply in tandem and in addition to zoning, SEPA and other regulations adopted by the city.

Any individual critical area adjoined by another type of critical area shall have the buffer and meet the requirements that provide the most protection to the critical areas involved. When any provision of this chapter, regulation, easement, covenant, or deed restriction conflicts with this chapter, that which provides the greatest protection to the critical area shall apply.

Compliance with this chapter does not constitute compliance with other federal, state, and local regulations and permit requirements that may also be required. The applicant is responsible for complying with all other requirements.

(Ord. 1069 § 1 (part), 2006)

15.08.050 - Fees.

Unless otherwise indicated in this chapter, the applicant shall be responsible for the initiation, preparation, submission, and expense of all reports, assessments, studies, plans, review, and/or any other work necessary for the review of an application. Fees for administering the provisions of this chapter shall be set from time to time by the Woodland city council by resolution.

(Ord. 1069 § 1 (part), 2006)

15.08.060 - Jurisdiction.

A. The city shall regulate all uses, activities and developments that are within, adjacent to, or are likely to effect a critical area(s) consistent with best available science.

B. All areas within the city that meet the definition of a critical area regardless of official identification are regulated by this chapter.

(Ord. 1069 § 1 (part), 2006)

15.08.070 - Protection.

Any action taken pursuant to this chapter shall result in an equivalent or greater function of the critical area. No activity or use shall be allowed that results in a net loss of the functions or values of critical areas.

(Ord. 1069 § 1 (part), 2006)

15.08.080 - Best available science.

A. Critical area reports or decisions to alter critical areas shall rely on the best available science criteria as defined in WAC 365-195-900 through WAC 365-195-925. Best available science is scientific information prepared by qualified scientific professionals through a process. Best available science shall be used to protect the functions and values of critical areas.

B. Evaluation of Scientific Process. To evaluate if the information received meets the requirements of best available science, the director shall determine whether the information has been derived from a valid scientific process. The following are characteristics of a valid scientific process:

1. Peer Review. The information has been critically reviewed by other persons who are qualified scientific experts in that scientific discipline. The proponents of the information have addressed criticism by the peer reviewers.

2. Methods. The methods to obtain the information are clearly stated and are reproducible. The methods are standardized in the scientific discipline or the methods have been appropriately peer reviewed to assure reliability and validity.

3. Logical Conclusions and Reasonable Inferences. The conclusions presented are based on reasonable assumptions supported by other studies and consistent with the general theory underlying the assumptions. The conclusions are logically and reasonably derived from the assumptions and supported by the data presented. Gaps or inconsistencies with other information have been adequately explained.

4. Context. The assumptions, analytical techniques, data, and conclusions are appropriately framed with respect to the prevailing body of scientific knowledge.

5. References. The assumptions, analytical techniques, and conclusions are well referenced with citations to relevant, credible literature and other pertinent existing information.

C. Nonscientific Information. Nonscientific information may supplement scientific information, but is not an adequate substitute for valid and available scientific information.

(Ord. 1069 § 1 (part), 2006)

15.08.090 - Applicability.

All development proposals within the city of Woodland, whether public or private, shall comply with the requirements of this chapter, whether or not a permit or authorization is required. Responsibility for the enforcement of this chapter shall rest with the Community Development Director. For the purposes of this chapter, development proposals shall include, but are not limited to the following:

A. Any project or development that requires a federally issued permit;

B. Any project or development that requires compliance with the Washington State Growth Management Act (RCW 36.70A);

C. Alteration of a critical area as defined herein;

D. Any project or development that requires a permit under the adopted building code;

E. Any development or use that requires approvals under existing or subsequently adopted Woodland codes and/or ordinances (e.g., subdivision, zoning, shoreline, conditional use, etc.).

Commented [AS8]: Change recommended by WDFW. Only wetland was listed previously.

(Ord. 1069 § 1 (part), 2006)

15.08.100 - Exemptions.

A. Exempt Activities and Impacts to Critical Areas. All exempted activities shall use reasonable methods to avoid potential impacts to critical areas. To be exempt from this chapter does not give permission to degrade a critical area or ignore risk from natural hazards. Any incidental damage to, or alteration of, a critical area that is not necessarily the outcome of the exempted activity shall be restored, rehabilitated, or replaced at the responsible party's expense.

B. The following developments, activities, and associated uses shall be exempt from the provisions of this chapter:

1. Development occurring within frequently flooded areas and aquifer recharge areas, and containing no other critical area as defined by this chapter, provided the development meets the requirements of Chapter 14.40 of this code;

2. Existing and ongoing agricultural activities not involving chemical applications as defined in this chapter;

3. Operation, maintenance, or repair of existing structures, infrastructure improvements, utilities, public or private roads, dikes, levees, or drainage systems, that do not require construction permits, if the activity does not further alter or increase the impact to, or encroach further within, the critical area or buffer and there is no increased risk to life or property as a result of the proposed maintenance or repair;

4. The removal or control of noxious weeds not involving chemical application, excavation, mechanical weed control with the use of hand-held tools;

5. Maintenance of intentionally created artificial wetlands or surface water systems including irrigation and drainage ditches, grass-lined swales and canals, detention facilities, farm ponds, and landscape or ornamental amenities. Wetlands, natural streams, natural streams that are channelized, lakes or ponds created as mitigation for approved land use activities or that provide critical habitat are not exempt and shall be regulated according to the mitigation plan;

6. Minimal site investigative work required by the city, state or a federal agency, or any other applicant such as surveys, soil logs, percolation tests, and other related activities, provided that impacts on environmentally critical areas are minimized and disturbed areas are restored to the pre-existing level of function and value within one year after tests are concluded;

7. Structural modification of, addition to, or replacement of an existing legally constructed structure that does not further alter or increase the impact to the critical area or buffer and there is no increased risk to life or property as a result of the proposed activity;

8. Passive recreational uses, sport fishing or hunting, scientific or educational study, or similar minimum impact activities;

9. The policies, regulations, and procedures of this chapter do not apply to those activities and uses conducted pursuant to the Washington State Forest Practices Act and its rules and regulations, RCW 76.09 and WAC 222, where state law specifically limits local authority, except with regard to developments and conversions requiring local approval, and when the city is the lead agency for environmental review.

10. Installation, construction, or replacement of utility lines in an improved City right-of-way, not including electric substations.

11. Maintenance of legally authorized existing and ongoing landscaping, including normal and nondestructive pruning and trimming of vegetation and thinning of limbs or individual trees, provide that no further disturbance is created.

12. The removal with hand labor and low-impact equipment of any invasive vegetation designated by the Cowlitz County Weed Control Board and in addition: English ivy (Hedera helix); Himalayan blackberry (Rubus armeniacus); evergreen blackberry (Rubus laciniatus); giant knotweed (Polygonum sachalinense); Himalayan knotweed (Polygonum polystachyum); and Japanese knotweed (Polygonum cuspidatum).

13. The removal of hazard or diseased trees from critical areas and buffers, provided that:
    a. Where the hazard is not immediately apparent to the Director or their designee, the applicant shall submit a report from a certified arborist, registered landscape architect, or professional forester that documents the hazard and provides a replanting schedule for the replacement trees;
    b. Tree cutting shall be limited to the minimum amount necessary to abate the hazard.
    c. All non-noxious weed vegetation and cut wood (tree stems, branches, etc.) shall be left within the critical area or buffer unless removal is warranted due to the potential for disease or pest transmittal to other healthy vegetation;
    d. The landowner shall replace any trees that are removed with new trees at a ratio of two replacement trees for each tree removed (2:1) within one (1) year. Replacement trees may be planted at a different, nearby location if it can be determined that planting in the same location would create a new hazard or potentially damage the critical area. Replacement trees shall be of a native species, appropriate to the surrounding habitat type, and of a minimum 15-gallon pot size or equivalent balled or burlapped stock and 4 feet in height.
    e. If a tree to be removed provides critical habitat, such as an eagle perch, a qualified wildlife biologist shall be consulted to determine timing and methods of removal that will minimize impacts; and

14. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops, and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the critical area by changing existing topography, water conditions, or water sources.

C. Emergency Actions.

1. Emergency actions which must be undertaken immediately or for which there is insufficient time for full compliance with this chapter when it is necessary to:

    a. Prevent an imminent threat to public health or safety;

    b. Prevent imminent danger to public or private property; or

    c. Prevent an imminent threat of serious environmental degradation.

2. In the event a person or emergency agency determines that the need to take emergency action is so urgent that there is insufficient time for review by the department, such emergency action may be taken immediately.

3. The person or agency undertaking such action shall notify the department within one working day following the commencement of the emergency activity. Following such notification, the department shall determine if the action taken was within the scope of the emergency actions allowed in this subsection. If the department determines that the action taken or part of the action taken is beyond the scope of allowed emergency actions, enforcement action is authorized, as outlined in Section 15.08.270 of this chapter.

4. Emergency actions shall be limited to the minimum necessary to alleviate the emergency. The critical area damaged by the emergency work shall be restored, if feasible and appropriate mitigation shall be required.

(Ord. 1069 § 1 (part), 2006)

15.08.110 - Exception—Reasonable use.

Exceptions to this chapter may be made when the imposition of the standards would deny an applicant all reasonable use of their property.

A. Reasonable Use Review Criteria. The criteria for review and approval of reasonable use exceptions are:

Commented [AS9]: WDFW indicates this would be difficult to imagine a scenario where this would apply.

1. The application of this chapter will deny all reasonable economic use of the subject property as otherwise allowed by applicable law;
2. No other reasonable use of the property has less impact on critical areas;
3. Any alteration allowed is the minimum necessary to allow for reasonable use of the property;
4. The inability of the applicant to derive reasonable use of the subject property, is not the result of actions by the applicant after the effective date of the ordinance codified in this chapter, or its predecessor; and
5. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site.

C. Public Agency and Utility Review Criteria. The criteria for review and approval of public agency and utility exceptions follow:

1. There is no other practical alternative to the proposed development with less impact on the critical areas.

2. The application of this Chapter would unreasonably restrict the ability to provide utility services to the public.

3. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site.

4. The proposal attempts to protect and mitigate impacts to the critical area functions and values consistent with the best available science.

5. The proposal is consistent with other applicable regulations and standards.

B. Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.

C. Nothing in this chapter shall be used to prevent the construction of a structure, subject to the standards outlined in subsections A and B of this section, on a lot legally created prior to the establishment of this chapter.

(Ord. 1069 § 1 (part), 2006)

15.08.120 - Preapplication conference.

A preapplication conference with the city's development review committee is required prior to the applicant having a critical area report completed for any project.

(Ord. 1069 § 1 (part), 2006)

15.08.130 - City review process.

A. The city shall:

1. Evaluate the project area and vicinity for critical areas and determine whether the proposed project will likely impact a critical area;
2. Determine if impacts to the critical area have been addressed or if the project avoids impacts to the critical area;
3. Consult with resource agencies and individuals with special expertise, as necessary, to assist in determination of project-related impacts and potential solutions for avoiding and/or mitigating those impacts.

B. If the proposed project is likely to impact a critical area, the city shall:

1. Require the applicant to have a critical area report prepared by a qualified professional;
2. Review and evaluate the critical area report to determine if the proposal conforms to purposes and performances of this chapter;
3. Assess potential impacts to the critical area and determine if they are necessary and unavoidable and if any mitigation proposed by the applicant is sufficient to protect the functions, values, or public health and welfare and requirements of this chapter.

(Ord. 1069 § 1 (part), 2006)

15.08.140 - Critical area identification checklist.

A. Submittal. Prior to the city's consideration of a proposed activity not found to be exempt pursuant to this chapter, the applicant shall submit a complete critical area identification checklist to the city.

B. Critical Area Identification Review Process. The director shall review the critical area identification checklist, review information available about the site, and perform a site visit.

C. Site Inspection. Upon receipt of a completed critical area identification checklist, the director or designee shall conduct a site visit of the proposed project site to determine if any critical area conditions exist on site. The director shall notify the applicant prior to the inspection. Reasonable access shall be provided for the purposes of site inspections for the City and other agencies.

Commented [AS10]: WDFW requested we add language to allow for City and other agencies to reasonably access the property.

D. Review of Available Information. The director may determine if a critical area report is needed by using the following indicators:

1. Information obtained from the critical area identification checklist;
2. Maps depicting critical areas, soil types and other appropriate features;
3. Information and scientific opinions from appropriate agencies;
4. Washington Department of Fish and Wildlife Priority Habitats and Species (PHS) and Salmonscape maps;
5. Documentation from other scientific sources;
6. Findings by qualified professionals or a reasonable belief by the director that a critical area may exist on or adjacent to the proposed activity.

E. Determination If Critical Area Report Is Needed.

1. No Critical Areas Present. If the director determines the proposed project is not within or adjacent to a critical area or buffer or that the project is not likely to degrade the functions or values of a critical area, then the director shall rule that no further critical area review is required. The director shall consult with resource agencies or individuals with special expertise, as necessary, to assist in the determination of critical areas and potential impacts associated with project proposals. A summary of the director's decision and review shall be included in the file and/or staff report.
2. Critical Area Present But No Impact. If the director determines there are critical areas within the proposed project but that the project is not likely to degrade the functions or values of a critical area, then the director may waive the requirements of a critical area report. The director shall consult with resource agencies or individuals with special expertise, as necessary, to assist in the determination of critical areas and potential impacts associated with project proposals. A waiver may be granted if all of the following are met:
   a. No alteration of the critical area or buffer will occur;
   b. No impact to the critical area will occur that is contrary to the intent of this chapter;

c. The proposal is consistent with other applicable regulations and standards.

3. Critical Areas May Be Affected. If the director determines that a critical area may be affected by a proposal, then the applicant shall be required to submit a critical area report prior to any further project activity. The director shall inform the applicant within ten business days following the site visit of his findings and indicate what critical area types should be addressed in the report.

A determination by the director is not an expert classification regarding the presence of critical areas. If the applicant wants greater assurance of the accuracy of the critical area review determination, the applicant may choose to hire a qualified professional to provide such assurances. If a qualified professional determines no critical areas exist or will not be affected by the proposal, the director may reconsider their determination.

(Ord. 1069 § 1 (part), 2006)

15.08.150 - Public notice of initial determination.

The city shall include in its notice of application the initial critical area determination by the director and any reasons for the determination. If a critical area report is required, a description of the critical area and location shall be included in the notice.

(Ord. 1069 § 1 (part), 2006)

15.08.160 - Critical area reports—Requirements.

A. Prepared by Qualified Professional. The applicant shall submit a critical area report prepared by a qualified professional.

B. Best Available Science. The critical area report shall use scientifically valid methods and studies in the analysis of critical area data and field reconnaissance. All scientific sources shall be referenced. The critical area report shall evaluate the proposal and all probable impacts to critical area in accordance with this chapter.

C. Minimum Report Contents. A critical area report shall contain at a minimum:

1. A completed master application;

2. A copy of the site plan including identified critical areas, buffers, development proposal(s), limits of any proposed clearing, a stormwater management plan;

3. The date, name(s) and qualifications of the person(s) preparing the report and documentation of any fieldwork performed on the site;

4. Identification and characterization of all critical areas and buffers;

5. A statement specifying the accuracy of the report and all assumptions;

6. An analysis of development alternatives;

7. An assessment of the probable cumulative impacts to critical areas resulting from the proposed development;

8. A description of reasonable efforts made to apply mitigation sequencing to avoid, minimize, and mitigate impacts to critical areas;

9. Plans for mitigation to offset any impacts including, but not limited to:

a. Impacts of any proposed development within or adjacent to a critical area or buffer,

b. Impacts of any proposed alteration of a critical area or buffer by the proposed project;

10. A discussion of the performance standards applicable to the critical area and proposed activity;
11. Financial guarantees to ensure compliance;
12. Any additional information required for the specific critical area as required by the corresponding chapter.

(Ord. 1069 § 1 (part), 2006)

15.08.170 - Critical area report—Modifications.

A. Study Area—Limitations. The director may modify the geographic area of the critical area report if:
   1. Permission to access adjacent properties cannot be obtained;
   2. Only a limited portion of the site will be affected by the activity.

B. Required Contents—Modifications. The director may modify the required contents of the critical area report if, in the judgment of a qualified professional, more or less information is required to adequately address the potential critical area impacts and mitigation.

C. Additional Information. The director may require additional information to be included with the critical area report when deemed necessary to the review of the proposed project.

(Ord. 1069 § 1 (part), 2006)

15.08.180 - Mitigation requirements.

A. The applicant shall avoid all impacts, to the extent possible, that degrade the functions and values of a critical area(s) or its buffer. The applicant shall compensate for unavoidable alteration to a critical area or buffer as required by an approved mitigation plan. in accordance with this chapter.

B. Mitigation shall be in-kind and on-site, when possible, and shall be sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard.

C. No mitigation shall be implemented until after the city has approved a critical area permit that includes a mitigation plan. All mitigation shall be in accordance with the provisions of this chapter

Commented [AS11]: WDFW indicates we could elaborate on this and their preference:
A.On-Site, in-kind
B.Off-site, in-kind
C.On-site, out-of-kind
D.Off-site, out-of-kind

(Ord. 1069 § 1 (part), 2006)

15.08.190 - Mitigation sequencing.

Applicants shall demonstrate that all reasonable efforts have been examined to avoid or minimize impacts to critical areas. When alteration to a critical area is proposed, such alteration shall be avoided, minimized or compensated for in the following order of preference:

A. Avoid the impact altogether by not taking an action or parts of an action.

B. Minimize impacts by limiting the degree or magnitude of the action or its implementation, by using appropriate technology, or by taking steps such as project redesign, relocation, or timing to avoid or reduce impacts.

C. Repair, rehabilitate, or restore the affected environment (wetlands, critical aquifer recharge areas, frequently flooded areas, habitat conservation areas) to historical conditions or conditions existing at the time of project initiation.

D. Minimize or eliminate the hazard by restoring or stabilizing the hazard area through engineered or other approved methods.

E. Reduce or eliminate the impact or hazard over time by preservation and maintenance operation during the life of the action.

F. Compensate for the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, habitat conservation areas by replacing, enhancing, or providing resources or environments.

G. Monitor the mitigation and provide remedial action when necessary.

(Ord. 1069 § 1 (part), 2006)

15.08.200 - Mitigation plan requirements.

When mitigation is required, the applicant shall submit the following as part of a critical area report. The plan shall include:

A. Environmental Goals and Objectives. The mitigation plan shall include a written report that identifies the environmental goals and objectives of the proposed compensation. The goals and objectives shall be related to the functions and values of the impacted critical area. The mitigation plan shall include:

1. A description of the anticipated impacts to the critical area(s) and the proposed mitigation actions.

2. Compensation measures, including the site selection criteria; compensation goals, identification of resource functions; and dates for beginning and completion of site construction and compensation activities.

3. A review of the best available science supporting the proposed mitigation'

4. A narrative of the author's experience to date in restoring or creating the type of critical area proposed;

5. An analysis of the likelihood of success of the compensation project.

B. Performance Standards. The mitigation plan shall include specific criteria that are measurable for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and that the requirements of this chapter have been met.

C. Detailed Construction Plans. The mitigation plan shall include written specification and descriptions of the proposed mitigation including, but not limited to:

1. Grading and excavation details;

2. Erosion and sediment control measures;

3. Planting plans showing plant species, location, quantities, size, spacing and density;

4. Proposed construction timing, sequence and duration;

5. Measures to protect and maintain plants until established;

6. Detailed site diagrams, topographic maps showing slopes in two-foot intervals, final grade elevations, and any other appropriate drawings, shall accompany written specifications.

D. Monitoring Program. A mitigation-monitoring program shall be included with any mitigation plan. The monitoring program shall be as specified by the qualified professional who prepared the mitigation plan. The director shall determine the frequency of site monitoring. The report shall document milestones, successes, problems and failures and contingency actions to compensate for mitigation shortfalls. The site shall be monitored for a period to establish that performance standards have been met, and not for a period of less than five years.

E. Contingency Plan. The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring indicates project performance standards are not being met.

F. Financial Guarantees. The mitigation plan shall include financial guarantees, if necessary, to ensure that the mitigation plan is fully implemented.

(Ord. 1069 § 1 (part), 2006)

15.08.210 - Determination and review.

A. The director shall make a determination as to whether the proposed activity and mitigation is consistent with the provisions of this chapter. Any alteration to a critical area, unless otherwise provided for in this chapter, shall be reviewed and approved, approved with conditions, or denied based on the proposal's ability to comply with all of the following criteria:

1. Impacts to critical areas are avoided or minimized in accordance with Section 15.08.190, Mitigation sequencing;
2. There is no unreasonable threat to public health, safety, or welfare;
3. The proposal is consistent with this chapter and the public interest;
4. Permitted alterations are mitigated in accordance with Section 15.08.180, Mitigation requirements;
5. The critical area functions and values are protected in accordance with the best available science; and
6. The proposal is consistent with other applicable regulations and standards.

B. The city may condition a proposed activity as necessary to mitigate for impacts to critical areas and to conform to standards of this chapter.

C. Any project that cannot adequately mitigate for impacts to critical areas shall be denied except as provided in this chapter.

(Ord. 1069 § 1 (part), 2006)

15.08.220 - Determination, favorable.

Upon determination that a proposed activity meets the requirements of Section 15.08.210 of this chapter, and complies with the requirements of this chapter, the director shall prepare a written notice of determination and identify any conditions of approval. Any changes to the conditions of approval shall void the previous determination pending a review of the alternative proposal and conditions by the director.

(Ord. 1069 § 1 (part), 2006)

15.08.230 - Determination, unfavorable.

Upon determination that a proposed activity does not meet the above criteria and/or does not adequately mitigate for impacts to critical areas, the director shall prepare a written notice of determination and identify the findings. A revised critical area report may be submitted by the applicant for consideration, following notice of the determination. The director may make a new determination based on the revised critical area report.

(Ord. 1069 § 1 (part), 2006)

15.08.240 - Critical area review, complete.

The city's determination shall be complete upon determination to approve, approve with conditions, or deny the proposal or activity. No activity or permit shall be approved or issued for an activity that does not adequately mitigate for impacts to critical areas and/or does not fully comply with the provisions of this chapter.

(Ord. 1069 § 1 (part), 2006)

15.08.250 - Appeal.

Any appeal of the decision to approve, condition, or deny a proposal may be made in accordance with Chapter 19.08 of this code.

(Ord. 1069 § 1 (part), 2006)

15.08.260 - Variances.

A. The city may authorize a variance from the requirements of this chapter with the procedures set forth in Chapter 17.81 WMC. The hearing examiner shall review the request and make a determination based on his findings, a staff report, the critical area report, and information presented by the applicant.

B. A variance may be granted only if the following criteria have been met:

1. Circumstances or conditions, particular to the land on which the activity is proposed, exist that are special and are not applicable to other lands in the same area;
2. The special circumstances or conditions are not the result of actions of the applicant;
3. Literal application of the provisions of this chapter would deny this applicant use and privileges enjoyed by other properties in the immediate vicinity, and the variance requested is the minimum necessary to provide that use and privilege;
4. No special privilege will be granted to the applicant that is denied other lands or structures under similar circumstances;
5. The variance is consistent with the intent of this chapter;
6. The variance will not further degrade the functions or values of the critical area or be materially detrimental to the public health, safety and welfare;
7. The decision to grant is supported by best available science with special consideration given to salmonids; and
8. The variance is consistent with the city comprehensive plan and zoning codes and other adopted development regulations.

C. Conditions. In granting a variance, the city may prescribe such conditions or safeguards as are necessary to secure adequate protection of critical areas from adverse impacts, and to ensure conformity with this chapter.

D. Time Limit. The city shall establish a time limit within which the action for which the variance is required shall be begun, completed or both. Failure to begin or complete the action within the prescribed time limit shall void the variance.

E. Burden of Proof. The burden of proof shall be on the applicant to show evidence of the need for a variance.

(Ord. 1069 § 1 (part), 2006)

Commented [AS12]: Language requested by WDFW.

15.08.270 - Unauthorized critical area alterations and enforcement.

A. When a critical area or buffer has been altered in violation of this chapter, the city shall have the authority to issue a stop-work order to cease all ongoing development work and order restoration, rehabilitation or replacement at the owner's or responsible parties' expense.

B. Restoration Plan Required. No work on the site shall be allowed until a restoration plan has been prepared and approved by the city in accordance with this chapter.

C. Minimum Performance Standards.

1. For unauthorized alterations to critical aquifer recharge areas, frequently flooded areas, wetlands habitat conservation areas, or associated buffers, the following shall be required at a minimum in accordance with an approved restoration plan:

a. Critical area functions and values, including water quality, habitat, and soils shall be restored to the condition existing prior to the alteration;

b. Critical areas and buffers shall be replanted with native vegetation, types, sizes and densities, as specified in WMC 15.08.430(B).

c. .

2. For flood and geological hazards, the following standards shall be met:

a. Risk of public or personal hazard resulting from the alteration shall be eliminated or significantly reduced to a level equal to the pre-altered state;

b. Hazard areas and buffers shall be replanted with native vegetation to minimize the hazard.

D. Site Visits/Inspections. Reasonable access shall be provided. The director is authorized to make site visits/inspections as necessary to enforce this chapter.

E. Penalties. Any person or entity determined to be in violation of this chapter is guilty of a misdemeanor. Each day or portion of a day the violation occurs shall constitute a separate offense. Any development conducted in violation of this chapter shall constitute a public nuisance and shall be subject to penalty in accordance with the Woodland Municipal Code.

(Ord. 1069 § 1 (part), 2006)

15.08.280 - Markers and signs.

A. Critical area boundaries shall be permanently delineated using iron or concrete markers in accordance with survey standards.

B. The outer boundary of a critical area or buffer shall be identified with temporary signs prior to any site development or alteration. Permanent signs may be required by the director upon completion of the project.

(Ord. 1069 § 1 (part), 2006)

15.08.290 - Notice on title.

A. Notice of the existence of a critical area and/or buffer on a site, shall be noted as a deed restriction for the property. The restriction shall state the presence of a critical area and/or buffer and note that limitations to development may exist.

B. The applicant shall submit proof of the deed restriction prior to final project approval.

(Ord. 1069 § 1 (part), 2006)

15.08.300 - Setbacks.

Unless otherwise provided in this chapter, buildings and other structures shall be set back a distance of fifteen feet from the edges of all critical area buffers or critical area if no buffer is required. The following may be allowed in the setback areas:

A. Landscaping;

B. Uncovered decks;

C. Building overhangs not greater than eighteen inches;

D. Driveways and patios provided runoff does not affect the critical area;

E. Storage sheds not greater than ten feet by ten feet.

(Ord. 1069 § 1 (part), 2006)

15.08.310 - Bonds.

Bonds shall be required when mitigation, restoration or rehabilitation is not completed prior to final project approval by the city. Bonds shall be in accordance with the Woodland Municipal Code.

(Ord. 1069 § 1 (part), 2006)

15.08.350 - Wetlands.

A. Designating Wetlands., Identification of wetlands and delineation of their boundaries pursuant to this Chapter shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplement. Wetlands are those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. Wetlands generally include, but are not limited to: swamps, marshes, bogs, ponds, and similar areas. All areas within the city meeting the wetland designation criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter.

B. Wetland Ratings.Wetlands shall be rated according to the Washington State Department of Ecology (Ecology) wetland rating system found in Hruby, 2014, Washington State Wetland Rating System for Western Washington, Ecology publication #14-06-029, or as revised by Ecology. The rating system document contains the definitions and methods for determining if the criteria below are met.

1. Category I. Category I wetlands are those that meet one or more of the following criteria:

   a. Wetlands of High Conservation Value as defined by the Washington State Department of Fish and Wildlife and the Natural Heritage Program at the Department of Natural Resources;

   b. Bogs;

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

   d. Wetlands that perform many functions well, as indicated by scoring 23 or more points

(out of 27 possible points) in the rating system.

2. Category II. Category II wetlands are those with a moderately high level of functions, as indicated by scoring 20 to 22 points in the Ecology rating system.

3. Category III. Category III wetlands are those with a moderate level of functions, as indicated by scoring 16 to 19 points in the Ecology rating system.

4. Category IV. Category IV wetlands are those with a low level of functions, as indicated by scoring less than 16 points in the Ecology rating system C. Date of Rating. Wetland rating categories, shall be applied as the wetland exists on the date of the adoption of the ordinance codified in this chapter as the wetland naturally changes thereafter, or as the wetland changes in accordance with permitted activities. Illegal modifications to wetlands shall not result in changes to wetland rating categories.

(Ord. 1069 § 1 (part), 2006)

15.08.360 - Initial project review.

Wetlands shall be identified and designated through a site visit and/or site assessment utilizing the definitions, methods, and standards as set forth in the federal wetland delineation manual and applicable regional supplement.

A site visit shall be conducted by the director to confirm the presence of wetland indicators listed in the critical areas checklist or identified in the State Environmental Policy Act (SEPA) checklist. The site visit shall be used to determine if a wetland or wetland buffer area are within two hundred feet of a proposed project or activity. A positive confirmation that wetland indicators are present or that the proposed project may impact the wetland area will then require a professional site assessment. The director shall use the following map references to assist in making a determination: (1) National Wetland Inventory Map; and (2) any records of previously mapped wetlands.

(Ord. 1069 § 1 (part), 2006)

15.08.370 - Activities allowed in wetlands.

The following activities are allowed in wetlands in addition to those activities listed in, and consistent with, the provisions established in exemption (Section 15.08.100 of this chapter), and do not require a critical area report, except where such activities result in a loss to the functions and values of a wetland or wetland buffer area. These activities include:

A. Conservation or preservation of soil, water, vegetation, fish, shellfish, and other wildlife that does not entail changing the structure or functions of the existing wetland; and

B. The harvesting of wild crops in a manner that is not injurious to natural reproduction such as crops and provided the harvesting does not require tilling of soil, planting of crops, or alteration of the wetland by changing existing topography, water conditions or water resources.

(Ord. 1069 § 1 (part), 2006)

15.08.380 - Critical area report—Requirements for wetlands.

In addition to the general critical area report requirements of Section 15.08.160 of this chapter, wetland critical area reports must meet the requirements of this section. Critical area reports that include two or more types of critical areas must meet the report requirements for each type of critical area. If a wetland critical area report is required, the report shall meet the following requirements:

A. Wetland Reconnaissance by Qualified Professional. A wetland reconnaissance shall be performed by a qualified wetlands professional. The reconnaissance shall identify the presence of wetlands within three hundred feet of the proposed project or activity area. If this reconnaissance demonstrates no wetlands within three hundred feet of the activity area, then no further study is required. If the reconnaissance identifies wetlands present within three hundred feet of the proposed project or activity, then a wetland critical areas report shall be prepared by a qualified professional.

B. Preparation of Report by Qualified Professional. A wetland critical areas report shall be prepared by a qualified professional ecologist or biologist according to the current approved federal manual and supplements including the 1987 Corps of Engineers Wetlands Delineation Manual and Regional Supplements, or as revised, and the Hruby, 2014, Washington State Wetland Rating System for Western Washington, Ecology publication #14-06-029, or as revised by Ecology

C. Area Addressed in Wetland Critical Area Report. The following areas shall be addressed in a wetland critical area report:

1. The project area of the proposed activity;
2. All wetlands and recommended buffers within three hundred feet of the project area; and
3. All shoreline areas, water features, floodplains, and other critical areas, and related buffers within two hundred feet of the project area.

D. Wetland Analysis. A wetland critical area report shall contain an analysis of the wetlands including the following site and proposal related information:

1. A written assessment of the wetlands and buffers within three hundred feet of the project area including:
   a. Maps of the wetland and buffer areas;
   b. Wetland delineation report, including vegetation, faunal, and hydrologic characteristics.
   c. Acreage of the existing wetland;
   d. Wetland rating and required buffers.
   e. Soil and substrate conditions;
   f. Topographic contours at two-foot intervals.
2. Proposed measures to avoid and minimize damage to the existing wetland and buffer.
3. A habitat and native vegetation plan that addresses methods to protect and/or enhance wetland functions and habitat.
4. Proposed mitigation, if needed, according to WMC 15.08.430
5. A list of management practices that will be used to protect and maintain the quality of the wetland and/or covenants and restrictions that will be used in managing the wetland.

E. Additional Information. Additional information may be required when deemed necessary by the director.

(Ord. 1069 § 1 (part), 2006)

15.08.390 - Wetland performance standards—General requirements.

A. Activities within wetland or wetland buffer areas may only be permitted if the applicant can show that the proposed activity will not degrade the functions and values of the wetland and/or other critical areas.

B. Activities and uses shall be prohibited within wetlands and wetland buffer areas except as permitted in this chapter.

C. Category 1 Wetlands. Activities and uses shall be prohibited from Category 1 wetlands, with the exception of public agencies and utilities as provided in this chapter and within the variance section of this chapter.

D. Category 2 and 3 Wetlands. The following standards shall apply to activities within Category 2 and 3 wetlands and wetland buffers:

1. Water-dependent activities are allowed when no practical alternatives having less adverse impact on the wetland or other critical areas are available and appropriate mitigation measures are proposed; and

2. Nonwater-dependent activities are prohibited unless:

a. All alternative designs of the proposed project to avoid adverse impacts to the wetland functions or wetland buffer are not feasible and appropriate mitigation measures are proposed.

E. Category 4 Wetlands. Activities and uses may be permitted in Category 4 wetlands that result in unavoidable impacts in accordance with an approved critical area report and mitigation plan, and only if the proposed activity is the only reasonable alternative available.

(Ord. 1069 § 1 (part), 2006)

15.08.400 - Wetland buffers.

A. Measurement of Wetland Buffers. All buffers shall be measured from the wetland boundary as surveyed in the field. Buffer widths shall be determined according to wetland category and intensity of the proposed land use. The buffer of a created, restored, or enhanced wetland shall be in conformance with the category of the wetland.

F. Land Use Intensity

Land Use Intensity	Land Uses
High	☐ Commercial ☐ Urban Industrial Institutional Retail sales Residential (more than 1 unit/acre) Conversion to high-intensity agriculture (dairies, nurseries, greenhouses, growing and harvesting crops requiring annual tilling and raising and maintaining animals, etc.) High-intensity recreation (golf courses, ball fields, etc.) Hobby farms
Moderate	

	Residential (1 unit/acre or less) Moderate-intensity open space (parks with biking, jogging, etc.) Conversion to moderate-intensity agriculture (orchards, hay fields, etc.) Paved trails Building of logging roads Utility corridor or right-of-way shared by several utilities and including access/maintenance road
Low	Forestry (cutting of trees only) Low-intensity open space (hiking, bird-watching, preservation of natural resources, etc.) Unpaved trails Utility corridor without a maintenance road and little or no vegetation management.

G. The level of function for habitat, based on the Washington State Wetland Rating System is as follows:

Level of Function	Habitat Score in Rating System
High	8-9
Moderate	5-7
Low	3-4

B. Standard Buffer Widths. The standard buffer width is intended to protect the wetland functions and values in relation to the project intensity at the time of the proposed activity. Required buffer widths are as follows:

Table 15.08.400-1

Wetland Buffers

Wetland Category	Wetland Characteristics	Buffer Widths by Impact of Proposed Land Use
Category 1	Natural Heritage Wetlands	Low - 125 feet
		Moderate - 190 feet
		High - 250 feet

	Bogs	Low - 125 feet
		Moderate - 190 feet
		High - 250 feet
	High level of function for habitat and 23 or more total points	Low - 150 feet
		Moderate - 225 feet
		High - 300 feet
	Moderate level of function for habitat and 23 or more total points	Low - 75 feet
		Moderate - 110 feet
		High - 150 feet
	Low level of function for habitat and high level of function for water quality improvement (8-9 points)	Low - 50 feet
		Moderate - 75 feet
		High - 100 feet
	Not meeting any of the above characteristics	Low - 50 feet
		Moderate - 75 feet
		High - 100 feet
Category 2	High level of function for habitat	Low - 150 feet
		Moderate - 225 feet
		High - 300 feet
	Moderate level of function for habitat	Low - 75 feet
		Moderate - 110 feet

		High - 150 feet
	Low level of function for habitat and high level of function for water quality improvement (8-9 points)	Low - 50 feet
		Moderate - 75 feet
		High - 100 feet
	Not meeting above characteristics	Low - 50 feet
		Moderate - 75 feet
		High - 100 feet
Category 3	Moderate level of function for habitat	Low - 75 feet
		Moderate - 110 feet
		High - 150 feet
	Not meeting above characteristic	Low - 40 feet
		Moderate - 60 feet
		High - 80 feet
Category 4	Score for all 3 basic functions is fewer than 16 points	Low - 25 feet
		Moderate - 40 feet
		High - 50 feet

C. Increased Wetland Buffer Widths. The director shall require increased buffer widths when recommendations by a qualified professional biologist and the best available sciences deem increased buffer widths necessary. The determination shall be based on the following:

1. An increased buffer area is necessary to protect other critical areas within the same project area;
2. The buffer area or adjacent uplands have a slope greater than fifteen percent or the buffer is susceptible to erosion where standard erosion controls will not prevent adverse impacts to the wetland;

3. Where an increased buffer is recommended due to minimal vegetation cover, a vegetation planting plan may be implemented as a substitute to the increased buffer width. A vegetation planting plan shall not result in a decrease in the buffer area. The vegetation planting plan shall include measures to monitoring and maintenance of the vegetated area.

E. Special Conditions for a Possible Reduction in Buffer Widths. Distinct from the provisions of Section 15.08.100(D) of this chapter, the buffer widths recommended for proposed land uses with high-intensity impacts to wetlands can be reduced to those recommended for moderate-intensity impacts under the following conditions, and only after submittal of a critical areas report prepared by a qualified professional that provides clear justification for the reduced buffer:

1. For wetlands that score moderate or high for habitat, the width of the buffer can be reduced if both of the following criteria are met:

   a. A relatively undisturbed, vegetated corridor at least one hundred feet wide is protected between the wetland and any other priority habitats as defined by the Washington State Department of Fish and Wildlife ("relatively undisturbed" and "vegetated corridor" are defined in questions H 2.1 and H 2.2.1 of the Washington State Wetland Rating System for Western Washington—Revised). The corridor must be protected for the entire distance between the wetland and the priority habitat by some type of legal protection such as a conservation easement.

   b. All applicable measures to minimize the impacts of different land uses on wetlands, such as the examples summarized in Table 15.08.400-2, are applied.

Table 15.08.400-2

Examples of Measures to Minimize Impacts to Wetlands from Proposed Change in Land Use That Have High Impacts

(This is not a complete list of measures.)

Examples of Disturbance	Activities and Uses that Cause Disturbances	Examples of Measures to Minimize Impacts
Lights	Parking lots	Direct lights away from wetland
	Warehouses	
	Manufacturing	
	Residential	
Noise	Manufacturing	Locate activity that generates noise away from wetland
	Residential	

Toxic runoff*	Parking lots	Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered
	Roads	
	Manufacturing	
	Residential areas	Establish covenants limiting use of pesticides within 150 feet of wetland
	Application of agricultural pesticides	Apply integrated pest management
	Landscaping	
Stormwater runoff	Parking lots	Retrofit stormwater detention and treatment for roads and existing adjacent development
	Roads	Prevent channelized flow from lawns that directly enters the buffer
	Manufacturing	
	Residential areas	
	Commercial	
	Landscaping	
Change in water regime	Impermeable surfaces	Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
	Lawns	
	Tilling	
Pets and human disturbance	Residential areas	Use privacy fencing; plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion; place wetland and its buffer in a separate tract
Dust	Tilled fields	Use best management practices to control dust

* These examples are not necessarily adequate for minimizing toxic runoff if threatened or endangered species are present at the site.

2. For wetlands that score fewer than five points for habitat, the buffer width can be reduced to that required for moderate land-use impacts by applying measures to minimize the impacts of the proposed land uses (see examples in Table 15.08.400-2).

F. Averaging of Buffer Widths. The director may allow for the standard buffer width to be averaged in accordance with an approved critical area report on a case-by-case basis. Averaging of buffer widths shall be allowed only when a qualified wetlands professional demonstrates that:

1. Averaging will not reduce wetland functions or values;

2. The wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places due to varying wetland quality;

3. The total area of the averaged buffer is not less than would be contained if there were no buffer averaging; and

4. The buffer width is not reduced to less than twenty-five percent of the standard buffer width or fifty feet, whichever is greater in any one location.

G. Buffer Conditions Shall Be Maintained. Wetland buffers in their natural state shall not be altered and shall be maintained in an undisturbed condition except as allowed in this chapter.

H. Mitigation Buffers. Any wetland that is created, restored, or enhanced as compensation for approved regulated wetland alterations shall have the standard buffer required for the category of the created, restored, or enhanced wetland.

I. Altered Wetland and/or Buffer Areas. Applicants are encouraged to restore wetlands or buffer areas that exist in a degraded state adjacent to a project not impacting the buffer in order to replace lost or diminished ecological functions and values. Applicants are required to restore a wetland or buffer that was impacted by their project. Prior to the issuance of a permit for development that is proposed adjacent to degraded wetlands or buffers, the property owner shall agree to undertake restoration activities or authorize such activities to occur, through an approved legal device such as a conservation program or restoration effort, or by legal agreement with restoration agencies or groups. Access shall be granted by the property owner for such restoration activities.

J. Functionally Isolated Buffer Areas. Areas which are functionally separated from a wetland and do not protect the wetland from adverse impacts due to preexisting roads, structures, or vertical separation shall be excluded from buffers otherwise required by this chapter on a case-by-case basis subject to a critical area report and review as determined by the director.

K. Exempted Wetlands.

1. All isolated Category IV wetlands less than 4,000 square feet that:

a. Are not associated with riparian areas or their buffers.

b. Are not associated with shorelines of the state or their associated buffers.

c. Are not part of a wetland mosaic

d. Do not score 5 or more points for habitat functions based on the 2014 update to the Washington State Wetland Rating System for Western Washington: 2014 Update (ecology Publication #14-06-029, or has revised and approved by Ecology).

e. Do not contain a Priority Habitat or a Priority Area for a Priority Species identified by the Washington Department of Fish and Wildlife, do not contain federally listed species or their critical habitat, or species of local importance as listed in this chapter

2. Wetlands less than 1,000 square feet that meet the above criteria and do not contain federally listed species or their critical habitat are exempt from the buffer provisions contained in this chapter.

L. Use of Buffer Areas. The following uses may be permitted within a required wetland buffer unless otherwise prohibited:

1. Conservation and Restoration Activities. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.

2. Passive Recreation. Passive recreation in accordance with an approved critical area report. Such activities include but are not limited to:

   a. Walking paths or trails (no motorized use) located in the outer twenty-five percent of the buffer area. Trails shall, to the extent feasible, be placed on existing road grades, utility corridors, or any other previously disturbed area and may need to be enhanced with screening. Trails or paths within a wetland or buffer area shall be planned to minimize removal of vegetation (trees, shrubs, etc.) and important wildlife habitat. Trail widths shall not be wider than three feet for private trail and ten feet for public use or publicly owned trails. Trail surfaces shall be made or constructed of pervious surfaces (natural materials like wood chips) and permanent surfacing materials (asphalt or concrete) shall require a variance. No construction or surfacing materials shall significantly alter the existing drainage or negatively affect the wetland or buffer area;

   b. Wildlife viewing structures, platforms, interpretive areas, picnic areas, benches and associated activities shall be designed and located to minimize disturbance to wildlife habitat and/or critical wetland and/or buffer values or functions;

   c. Access to fishing areas via walking paths or trails.

3. Hazard Tree Removal. When a threat to human life or property is determined, the director may allow the falling of a danger or hazard tree subject to the following criteria:

   a. The applicant shall submit a report from a certified arborist, registered landscape architect, or professional forester that documents the hazard and provides a replanting schedule for the replacement trees.
   b. Tree cutting shall be limited to the minimum amount necessary to abate the hazard.
   c. All non-noxious weed vegetation and cut wood (tree stems, branches, etc.) shall be left within the critical area or buffer unless removal is warranted due to the potential for disease or pest transmittal to other healthy vegetation;
   d. The landowner shall replace any trees that are removed with new trees at a ratio of two replacement trees for each tree removed (2:1) within one (1) year. Replacement trees may be planted at a different, nearby location if it can be determined that planting in the same location would create a new hazard or potentially damage the critical area. Replacement trees shall be of a native species, appropriate to the surrounding habitat type, and of a minimum 15-gallon pot size or equivalent balled or burlapped stock and 4 feet in height.
   e. If a tree to be removed provides critical habitat, such as an eagle perch, a qualified wildlife biologist shall be consulted to determine timing and methods of removal that will minimize impacts.

4. Stormwater Management Facilities. A wetland or its buffer can be physically or hydrologically altered to meet the requirements of an LID, Runoff Treatment or Flow Control BMP if ALL of the following criteria are met:

   a. The wetland is classified as a Category IV or a Category III wetland with a habitat score of 3-4 points, and

   b. There will be “no net loss” of functions and values of the wetland, and

   c. The wetland does not contain a breeding population of any native amphibian species, and

   d. The hydrologic functions of the wetland can be improved as outlined in questions 3, 4, 5 of Chart 4 and questions 2, 3, 4 of Chart 5 in the “Guide for Selecting Mitigation Sites Using a

Commented [AS13]: Language requested by WDFW.

Watershed Approach." (available here: http://www.ecy.wa.gov/biblio/0906032.html); or the wetland is part of a priority restoration plan that achieves restoration goals identified in a Shoreline Master Program or other local or regional watershed plan, and

e. The wetland lies in the natural routing of the runoff, and the discharge follows the natural routing, and

f. All regulations regarding stormwater and wetland management are followed, including but not limited to local and state wetland and stormwater codes, manuals, and permits, and

g. Modifications that alter the structure of a wetland or its soils will require permits. Existing functions and values that are lost would have to be compensated/replaced.

Stormwater LID BMPs required as part of New and Redevelopment projects can be considered within wetlands and their buffers. However, these areas many contain features that render LID BMPs infeasible. A site-specific characterization is required to determine if an LID BMP is feasible at the project site.

(Ord. 1069 § 1 (part), 2006)

15.08.410 - Signing and fencing wetlands.

A. Temporary Markers. The outer perimeter of a wetland and buffer area and the limit of the wetland or buffer area to be disturbed pursuant to an approved permit, shall be marked in the field in such a way as to prevent unauthorized disturbance of the wetland or buffer area. Temporary marking shall be maintained throughout the permitted activity and shall not be removed until final inspections are completed and approved permanent signs, if required, are in place. The location of temporary markers shall be shown on all site plans and final plats associated with the proposal. Temporary markers shall be composed of one-half inch galvanized pipe or equivalent monument, at least eighteen inches long, and shall show above the surface at least two inches. Temporary markers shall be spaced no more than fifty feet apart or as determined by the director.

B. Permanent Signs. The director may require the applicant to install permanent signs along the boundary of the wetland buffer as a condition of any permit. Permanent signs shall be made of an enamel-coated metal face and attached to a metal post or another non-treated material of equal durability. Signs must be posted at an interval of one (1) every fifty (50) feet, or one (1) per lot if the lot is less than fifty (50) feet wide, and must be maintained by the property owner in perpetuity. The signs shall be worded as follows or with alternative language approved by the Director:

Protected Wetland Area
Do Not Disturb
Contact the City of Woodland
Regarding Uses, Restrictions, and Opportunities for Stewardship

C. Temporary Fencing. All wetlands shall be temporarily fenced between the permitted activity and the buffer with a highly visible and durable protective barrier during the proposed activity to prevent access and to protect the critical area and buffer. The director may waive this requirement if an alternative to fencing which achieves the same objective is proposed and approved.

D. Permanent Fencing. The applicant shall be required to install a permanent fence around the wetland or buffer when domestic grazing animals are present or may be introduced on site. Fencing installed as part of a proposed activity or as required in this Subsection shall be designed so as not to interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes impacts to the wetland and associated habitat.

(Ord. 1069 § 1 (part), 2006)

15.08.420 - Stormwater management.

The following stormwater management standards are required as they apply to each activity:

A. New developments shall utilize best management practices to minimize stormwater quantity and quality impacts to wetlands, both during and following construction.

B. Stormwater runoff from new development shall not significantly change the rate of flow, hydroperiod (which is the seasonal period and duration of water saturation or inundation), nor decrease the water quality of wetlands.

C. Authorized modifications of wetlands or buffer areas for construction of discharge from drainage facilities shall protect wetland hydrologic functions classified pursuant to this section.

E. Developments which handle, store, dispose, or transport or generate hazardous substances/wastes defined as "dangerous" or "extremely dangerous" wastes under WAC 173-303 (regardless of quantity) shall not allow direct precipitation or stormwater runoff to contact such substances where stored on-site.

F. The Washington State Department of Ecology's Stormwater Manual shall be the standard reference when implementing a stormwater management plan unless the director authorizes an alternative approach.

(Ord. 1069 § 1 (part), 2006)

15.08.430 - Wetland mitigation.

A. Mitigation Sequencing. Before impacting any wetland or its buffer, an applicant shall demonstrate that the following actions have been taken. Actions are listed in order of preference. A lower-preference form of mitigation shall be used only if the applicant's qualified wetland professional demonstrates to the City's satisfaction that all higher-ranked types of mitigation are not viable. :

1. Avoid the impact completely by not taking certain action or parts of the action;

2. Minimize impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts.

3. Resolve the impact by repairing, rehabilitating, or restoring the affected environment;

4. Reduce or eliminate the impact over time by preservation, restoration and maintenance;

5. Compensate for the impact by replacing enhancing, or providing substitute resources or environments;

6. Monitoring the required compensation and taking remedial or corrective measures when necessary.

B. Requirements for Wetland Mitigation:

1. Mitigation for alterations of wetlands shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions. 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 (Western Washington) (Publication #09-06-32, Olympia, WA, December 2009).

2. Mitigation ratios shall be consistent with Subsection H of this Chapter.

3. Mitigation requirements may also be determined using the credit/debit tool described in Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final Report (Ecology Publication #10-06-011, Olympia, WA, March 2012, or as revised) consistent with Subsection G of this chapter.

C. Compensating for Lost or Affected Functions. Mitigation shall address the functions affected by the proposed project, with an intention to achieve functional equivalency or improvement functions. The goal shall be for the compensatory mitigation to provide similar wetland functions as those lost, except when either:

1. The lost wetland provides minimal functions, and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions shown to be limiting within a watershed through a formal Washington state watershed assessment plan or protocol; or

2. Out-of-kind replacement of wetland type or functions will best meet watershed goals formally identified by the City, such as replacement of historically diminished wetland types.

D. Approaches to Mitigation. Mitigation for lost or diminished wetland and buffer functions shall rely on the approaches listed below.

1. Wetland mitigation banks. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the mitigation bank instrument. Use of credits from a wetland mitigation bank certified under Chapter 173-700 WAC is allowed if:

   a. The approval authority determines that it would provide appropriate compensation for the proposed impacts; and

   b. The impact site is located in the service area of the bank.

   c. The proposed use of credits is consistent with the terms and conditions of the certified mitigation bank instrument.

   d. Replacement ratios for projects using bank credits is consistent with replacement ratios specified in the certified mitigation bank instrument.

2. In-Lieu Fee Mitigation. Credits from an approved in-lieu fee program may be used when all of the following apply:

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

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

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

   d. The impacts are located within the service area specified in the approved in-lieu-fee instrument.

3. Permittee-responsible mitigation. In this situation, the permittee performs the mitigation after the permit is issued and is ultimately responsible for implementation and success of the mitigation. Permittee-responsible mitigation may occur at the site of the permitted impacts or at an off-site location within the same watershed. Permittee-responsible mitigation shall be used only if the applicant's qualified wetland professional demonstrates to the approval authority's satisfaction that the proposed approach is ecologically preferable to use of a bank of ILF program, consistent with the criteria in this section.

E. Location of Mitigation. Mitigation actions shall generally be conducted within the same sub-drainage basin and on the site of the alteration except when the applicant can demonstrate that off-site mitigation is ecologically preferable. The following criteria will be evaluated when determining whether the proposal is ecologically preferable. When considering off-site mitigation, preference should be given to using alternative mitigation, such as a mitigation bank, an in-lieu-fee program, or advance mitigation.

1. There are no reasonable opportunities on site or within the sub-drainage basin (e.g. on-site options would require elimination of high-functioning upland habitat), or opportunities on site or within the sub-drainage basin do not have a high likelihood of success based on a determination of the capacity of the site to compensate for the impacts. Consideration should include: anticipated replacement ratios for wetland mitigation, buffer conditions and required widths, available water to maintain anticipated

hydrogeomorphic classes of wetlands when restored, proposed flood storage capacity, and potential to mitigate riparian fish and wildlife impacts (such as connectivity).

2. On-site mitigation would require elimination of high-quality upland habitat;

3. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the altered wetland.

4. Off-site locations shall be in the same sub-drainage basin unless:

a. Established watershed goals for water quality, flood storage or conveyance, habitat, or other wetland functions have been established by the City and strongly justify location of mitigation at another site; or

b. Credits from a state-certified wetland mitigation bank are used as compensation, and the use of credits is consistent with the terms of the certified bank instrument;

c. Fees are paid to an approved in-lieu-fee program to compensate for the impacts.

5. The design for the compensatory mitigation project needs to be appropriate for its location (i.e., position in the landscape). Therefore, compensatory mitigation should not result in the creation, restoration, or enhancement of an atypical wetland.

F. Timing of Mitigation. It is preferred that mitigation projects be completed prior to activities that will impact wetlands. At the least, mitigation shall be completed immediately following disturbance and prior to use or occupancy of the action or development. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, and flora.

1. The director may authority a one-time temporary delay in completing construction or installation of the mitigation when the applicant provides a written explanation from a qualified wetland professional as to the rationale for the delay. An appropriate rationale would include identification of the environmental conditions that could produce a high probability of failure or significant construction difficulties (.e.g. project delay lapses past a fisheries window, or installing plants should be delayed until the dormant season to ensure greater survival of installed materials). The delay shall not create or perpetuate hazardous conditions or environmental damage or degradation, and the delay shall not be injurious to the health, safety, or general welfare of the public. The request for the temporary delay must include a written justification that documents the environmental constraints that preclude implementation of the mitigation plan. The justification must be verified and approved by the City.

G. Mitigation Ratios. Any wetland that is degraded as a result of a permitted or nonpermitted activity shall be restored, created or enhanced at an area equal to or greater than the wetland area that was altered in order to compensate for losses to wetland acreage or functions according to the following ratios:

Category and Type of Wetland	Creation or Re-establishment	Rehabilitation	Enhancement
Category I: Bog, Natural Heritage Site	Not considered possible	Case by Case	Case by Case
Category I: Mature Forested	6:1	12:1	24:1
Category I: Based on functions	4:1	8:1	16:1
Category II	3:1	6:1	12:1
Category III	2:1	4:1	8:1
Category IV	1.5:1	3:1	6:1

H. Credit/Debit Method. To more fully protect functions and values, and as an alternative to the mitigation ratios found in the joint guidance Wetland Mitigation in Washington State Parts I and

II (Ecology Publication #06-06-011 a-b, Olympia, WA, March 2006), the director may allow mitigation based on the "credit/debit" method developed by the Department of Ecology in Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final Report, (Ecology Publication #10-06-011, Olympia, WA, March 2012, or as revised).

I. Mitigation Plan. When a project involves wetland and/or buffer impacts, a compensatory mitigation plan prepared by a qualified professional shall be required, meeting the following minimum standards:

1. Wetland Critical Area Report. A critical area report for wetlands must accompany or be included in the compensatory mitigation plan and include the minimum parameters described in Minimum Standards for Wetland Reports of this Chapter.

2. Compensatory Mitigation Report. The report must include a written report and plan sheets that contain, at a minimum, the following elements. Full guidance can be found in Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1) (Ecology Publication #06-06-011b, Olympia, WA, March 2006 or as revised).

a. The written report must contain, at a minimum:

i. The name and contact information of the applicant, the name, qualifications, and contact information for the primary author(s) of the mitigation report; a description of the proposal; a summary of the impacts and proposed compensation concept; identification of all the local, state, and/or federal wetland-related permit(s) required for the project; and a vicinity for the project.

ii. Description of how the project design has been modified to avoid, minimize, or reduce adverse impacts to wetlands.

iii. Description of the existing wetland and buffer areas proposed to be altered. Include acreage (or square footage), water regime, vegetation, soils, landscape position, surrounding land uses, and functions. Also describe impacts in terms of acreage by Cowardin classification, hydrogeomorphic classification, and wetland rating, based on Wetland Ratings of this Chapter.

iv. Description of the mitigation site, including location and rationale for selection, Include an assessment of existing conditions: acreage (or square footage) of wetlands and uplands, water regime, sources of water, vegetation, soils, landscape position, surrounding land uses, and functions. Estimate future conditions in this location if the compensation actions are NOT undertaken (i.e. how would this site progress through natural succession).

v. Surface and subsurface hydrologic conditions, including an analysis of existing and proposed hydrologic regimes for enhanced, created, or restored mitigation areas. Include illustrations of how data for existing hydrologic conditions were used to determine the estimates of future hydrologic conditions.

vi. A description of the proposed actions for compensation of wetland and upland areas affected by the project. Include overall goals of the proposed mitigation, including a description of the targeted functions, hydrogeomorphic classification, and categories of wetlands.

vii. A description of the proposed mitigation construction activities and timing of activities.

viii. Performance standards (measurable standards for years post-installation) for upland and wetland communities, a monitoring schedule and actions proposed by year.

ix. A discussion of ongoing management practices that will protect wetlands after the development project has been implemented, including proposed monitoring and maintenance programs (for remaining wetlands and compensatory mitigation wetlands).

x. A bond estimate for the entire mitigation project, including the following elements: site preparation, plant materials, construction materials, installation oversight, maintenance twice per year for up to five (5) years, annual monitoring field work and reporting, and contingency actions for a maximum of the total required number of years for monitoring.

xi. Proof of establishment of Notice on Title for the wetlands and buffers on the project site, including the mitigation areas.

b. The scaled plan sheets for the mitigation must contain, at a minimum:

i. Surveyed edges of the existing wetland and buffers, proposed areas of wetland and/or buffer impacts, location of proposed wetland and/or buffer compensation actions.

ii. Existing topography, ground-proofed, at two-foot contour intervals in the zone of the proposed compensation actions if any grading activity is proposed in the compensation area(s). Also include existing cross-sections (estimated one-foot intervals) of wetland areas on the development site that are proposed to be altered and for the proposed areas of wetland or buffer compensation.

iii. Conditions expected from the proposed actions on site, including future hydrogeomorphic types, vegetation community types by dominant species (wetland and upland), and future water regimes.

iv. Required wetland buffers for existing wetlands and proposed compensation areas. Also identify any zones where buffers are proposed to be reduced or enlarged of the standards identified in this Chapter.

v. A planting plan for the compensation area, including all species by proposed community type and water regime, size and type of plant material to be installed, spacing of plants, typical clustering patterns, total number of each species by community type, and timing of installation.

J. Buffer Mitigation Ratios. Impacts to buffers shall be mitigated at a minimum 1:1 ratio. Compensatory buffer mitigation shall replace those buffer functions lost from development.

K. Protection of the Mitigation Site. The mitigation area and any associated buffer shall be located in a critical areas tract or a conservation easement consistent with this Chapter.

L. 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. If a scrub-shrub or forested vegetation community is proposed, monitoring may be required for ten years or more. 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 plans are achieved.

M. Advance Mitigation. Mitigation for projects with pre-identified impacts to wetlands may be constructed in advance of the impacts if the mitigation is implemented according to federal rules, state policy on advance mitigation, and state water quality regulations consistent with Interagency Regulatory Guide: Advance Permittee-Responsible Mitigation (Ecology Publication #12-06-015, Olympia, WA, December 2012).

N. Alternative Mitigation Plans. The director may approve alternative wetland mitigation plans that are based on best available science, such as priority restoration plans that achieve restoration goals identified in the SMP. Alternative mitigation proposals must provide an equivalent or better level of protection of wetland functions and values than would be provided by the strict application of this chapter.

The director shall consider the following for approval of an alternative mitigation proposal:

1. The proposal uses a watershed approach consistent with Selecting Wetland Mitigation Sites using a Watershed Approach (Western Washington) (Ecology Publication #09-06-32, Olympia, WA, December 200().
2. Creation or enhancement of a larger system of natural areas and open space is preferable to the preservation of many individual habitat areas.
3. Mitigation according to Section E is not feasible due to site constraints such as parcel size, stream type, wetland category, or geologic hazards.
4. There is clear potential for success of the proposed mitigation at the proposed mitigation site.
5. The plan shall contain clear and measurable standards for achieving compliance with the specific provisions of the plan. A monitoring plan shall, at a minimum, meet the provisions in Section I.
6. The plan shall be reviewed and approved as part of overall approval of the proposed use.
7. A wetland of a different type may be justified based on regional needs or functions and values; the replacement ratios may not be reduced or eliminated unless the reduction results in a preferred environmental alternative.
8. Mitigation guarantees shall meet the minimum requirements as outlined in Section I.

9. Qualified professionals in each of the critical areas addressed shall prepare the plan.
10. The City may consult with agencies with expertise and jurisdiction over the critical areas during the review to assist with analysis and identification of appropriate performance measures that adequately safeguard critical areas.

(Ord. 1069 § 1 (part), 2006)

15.08.440 - Aquifer recharge areas.

Aquifer recharge areas are those areas with a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2). Aquifer recharge areas have geologic conditions associated with infiltration rates that create a high potential for contamination of groundwater resources or contribute significantly to the replenishment of groundwater.

This section establishes areas determined to be critical in maintaining both groundwater quantity and quality. The purpose of this chapter is to protect aquifer recharge areas from degradation or depletion resulting from new land use activities. Due to the exceptional susceptibility and/or vulnerability of groundwater underlying aquifer recharge areas to contamination and the importance of such groundwater as a source for public water supply, it is the intent of this chapter to safeguard groundwater resources by mitigating or precluding future discharges of contaminants from new land use activities.

A. Permitted Activities. The following activities are permitted within an aquifer recharge areas where no critical area report is required:

    1. Construction of, or improvements to, single-family residences or other structures not greater than two thousand five hundred square feet or five percent impervious surface of the site, whichever is greater, that do not use or increase the use of hazardous materials;

    2. Parks, recreation facilities, where no more than five percent of the site is impervious surface and, that do not use or increase the use of hazardous materials;

    3. On-site septic systems and drain fields for residential uses;

    4. Additional report requirements.

(Ord. 1069 § 1 (part), 2006)

15.08.450 - Critical area report—Additional requirements for aquifer recharge areas.

In addition to the general critical report requirements of Section 15.08.160 of this chapter, proposed developments within critical aquifer recharge areas must also meet the following:

A. Report—Prepared by Qualified Professional. A critical area report for an aquifer recharge area shall be prepared by a qualified professional who is licensed by the state as a hydrologist, geologist, or engineer and who has experience in preparing hydrologic assessments.

B. Assessment Required—Hydrologic. All proposed activities, except those permitted activities above, shall have a level one hydrological assessment prepared. A level two hydrologic assessment shall be required for the following activities:

    1. Activities that result in five percent or more impervious surface area;

    2. Any activity that diverts, alters, or reduces the flow of surface or groundwater or reduces aquifer recharge;

    3. The use of hazardous substances other than household chemicals used in accordance with the package directions for domestic applications;

    4. Injection wells, except domestic septic systems;

5. Any activity determined by the director that may likely have an adverse effect on aquifer recharge or groundwater quality.

C. Level One Hydrologic Assessment. A level one hydrologic assessment shall include all of the following:

1. Geologic and hydrologic characteristics for the site and immediately surrounding areas, if applicable, and any surface aquifer recharge areas;
2. Groundwater depth and flow direction and quantity;
3. Data on springs or wells within one thousand feet of the site;
4. Location of other critical areas within one thousand feet of the site;
5. Water quality data;
6. Proposed best management practices for the project.

D. Level Two Hydrologic Assessment. In addition to the requirements of a level one hydrologic assessment, a level two hydrologic assessment shall also include all of the following:

1. Historic water quality data for the affected area for the past five years;
2. Provisions for a groundwater monitoring plan;
3. Effects the proposed project may have on groundwater quantity and quality, including:
   a. Evaluation of groundwater withdrawal effects on nearby wells or surface water;
   b. Evaluation of groundwater contamination from potential releases;
4. A spill plan identifying structures or equipment that may fail and result in an impact. A spill plan shall include provisions for regular inspections, repair, and replacement of structures or equipment.

(Ord. 1069 § 1 (part), 2006)

15.08.460 - Performance standards—General.

A. Activities shall only be allowed in an aquifer recharge area if the applicant can demonstrate that the proposed activity will not cause contaminants to enter the groundwater or adversely affect aquifer recharge.

B. Proposed activities must comply with the EPA, State Department of Health, Department of Ecology, and Cowlitz County Health and Human Services.

(Ord. 1069 § 1 (part), 2006)

15.08.470 - Performance standards for specific uses.

A. Storage Tanks. All storage tanks proposed to be located in an aquifer recharge area shall comply with the adopted building code requirements, applicable zoning, fire life safety requirements, and the following:

1. Underground Tanks. All new underground storage tanks that will contain hazardous substances shall be designed and constructed to:
   a. Prevent releases due to corrosion or structural failure for the life of the tank;
   b. Protect against corrosion or constructed of corrosion-resistant materials, or designed to prevent the release of any stored substance.

2. Aboveground Tanks. All new aboveground storage tanks that will contain hazardous substances shall be designed and constructed to:

   a. Not allow the release of hazardous substances to the ground or surface waters;

   b. Contain spills using a primary containment area enclosing or underlying the tank;

   c. Contain spills using a secondary containment system either built into the tank structure or by a dike system constructed outside the tank.

B. Vehicle Repair and Servicing.

1. Vehicle service and repair shall be conducted over an impervious surface and within a covered structure capable of withstanding normal weather conditions. Chemicals used in vehicle repair and servicing shall be stored in a manner that is protected from the weather and provides containment from leaks or spills.

2. No dry wells shall be allowed in critical aquifer recharge areas on sites used for vehicle repair and servicing. Dry wells existing on a site proposed for vehicle repair shall be abandoned using methods approved by the Department of Ecology.

C. Reclaimed Water—Spreading or Injection. Reclaimed water projects must be in accordance with Department of Ecology requirements and approval.

(Ord. 1069 § 1 (part), 2006)

15.08.480 - Prohibited uses.

The following activities are prohibited in an aquifer recharge area:

A. Landfills;

B. Underground injection wells;

C. Mining;

D. Wood treatment facilities that allow any portion of the treatment process to occur over permeable surfaces;

E. Storage or processing of radioactive materials;

F. Any activity that significantly reduces aquifer recharge, aquifer flow, or aquifer quantity or quality.

(Ord. 1069 § 1 (part), 2006)

15.08.500 - Frequently flooded areas.

A. Frequently Flooded Area Classifications and Designations. All lands identified in the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM), as amended, and approved by the city or county, as within the one-hundred-year floodplain are designated as frequently flooded areas. These maps are based on the following:

1. Flood Insurance Study—Cowlitz County Unincorporated Areas;

2. Flood Insurance Study—City of Woodland.

B. Development Limitations. All development within designated frequently flooded areas shall be in compliance with the city of Woodland floodplain management ordinance, Chapter 14.40 of this code, as now or hereafter amended.

(Ord. 1069 § 1 (part), 2006)

15.08.600 - Geologically hazardous areas.

A. Designation of Geologically Hazardous Areas. Geologically hazardous areas pose a threat to the health and safety of the general public when incompatible development is sited in areas of significant hazard. Geologically hazardous areas include areas susceptible to erosion, sliding, earthquake or other geological events. Development within a geologically hazardous area may not only pose a threat to that particular development, but to areas surrounding the development.

(Ord. 1069 § 1 (part), 2006)

15.08.610 - Erosion and landslide hazard areas.

A. General.

1. Erosion hazard areas are those areas that, because of their natural characteristics, including vegetative cover, soil texture, slope, gradient, and rainfall patterns, or human-induced changes to such characteristics, are vulnerable to erosion.

2. Landslide hazard areas are areas potentially subject to the risk of mass movement due to geologic, topographic, and/or hydrologic factors.

B. Classification.

1. Criteria.

a. Erosion hazard areas are identified by the presence of vegetative cover, soil texture, slope, and rainfall patterns, or human-induced changes to such characteristics, which create site conditions, which are vulnerable to erosion. Erosion hazard areas are those areas that are classified as having moderate to severe, or very severe erosion potential by the Natural Resources Conservation Service, United States Department of Agriculture (USDA).

b. Landslide hazard areas are those areas meeting any of the following characteristics:

i. Areas of historic failures, such as:

(A) Those areas delineated by the U.S. Department of Agriculture's Natural Resources Conservation Service as having "severe" limitation for building site development;

(B) Those areas mapped by the Department of Ecology or the Washington Department of Natural Resources as unstable, unstable old slides, or unstable recent slides;

(C) Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the U.S. Geological Survey or Department of Natural Resources.

ii. Areas with all three of the following characteristics:

a. Slopes steeper than fifteen percent;

b. Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and

c. Springs or groundwater seepage.

iii. Slopes that are parallel or sub-parallel to planes of weakness, such as bedding planes, joint systems, and fault planes, in subsurface materials;

iv. Slopes having gradients steeper than eighty percent subject to rock fall during seismic shaking;

v. Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and undercutting by wave action;

vi. Any area with a slope of thirty percent or steeper and with a vertical relief of ten or more feet. A slope is delineated by estimating the toe and top and measured by averaging the inclination over at least ten feet of vertical relief.

(Ord. 1069 § 1 (part), 2006)

15.08.620 - Mapping of hazards.

The following sources may be used to identify landslide and erosion hazard areas:

A. Soil Survey of Cowlitz Area, Washington, United States Department of Agriculture, February 1974;

B. Areas designated as slumps, earthflows, mudflows, lahars, or landslides on maps published by the U.S. Geological Survey or Washington Department of Natural Resources;

C. Washington Department of Natural Resources seismic hazard maps for Western Washington;

D. Federal Emergency Management Administration flood insurance maps;

E. Other maps or records of local geological hazard events.

(Ord. 1069 § 1 (part), 2006)

15.08.630 - Allowed activities.

The director may allow the following activities within other geologically hazardous areas if the activity will not increase the risk of the hazard:

A. Construction of new buildings with less than two thousand five hundred square feet of floor area or roof area, whichever is greater;

B. Additions to existing residences that are two hundred fifty square feet or less; and

C. Installation of fences.

(Ord. 1069 § 1 (part), 2006)

15.08.640 - Regulation.

For all regulated activities proposed within landslide and erosion hazard areas, a geotechnical report prepared by a professional engineer licensed by the state of Washington with expertise in geotechnical engineering shall be submitted. Where the applicant can clearly demonstrate to the department through submittal of a geotechnical assessment that the regulated activity or any related site alterations will not occur within the landslide or erosion hazard area or any associated buffers, the requirements for a geotechnical report may be waived. A geotechnical assessment may be prepared by a professional engineer licensed by the state of Washington with expertise in geotechnical engineering. A geotechnical assessment may also be prepared by a professional geologist/hydrologist or soils scientist who has earned a bachelor's degree in geology, hydrology, soils science, or closely related field from an accredited college or university or equivalent educational training, and having five years' experience assessing erosion and landslide hazards.

A. Geotechnical Assessments.

1. If an applicant questions the presence of landslide or erosion hazard areas on a site, the applicant may submit a geotechnical assessment.
2. A geotechnical assessment shall include all of the following:
    a. A description of the topography, surface and subsurface hydrology, soils, geology, and vegetation of the site;
    b. An evaluation of the analysis area's inherent landslide and erosion hazards and any other critical areas and buffers, and any critical areas that may be likely to impact the site;
    c. A site plan of the area delineating all areas of the site subject to landslide and erosion hazards, based on sources and criteria above;
    d. The submittal must include a contour map of the proposed site, at a scale of one inch equals twenty feet or as deemed appropriate by the department. Slopes shall be clearly delineated for the ranges between fifteen percent and twenty-nine percent, and thirty percent or greater, including figures for area coverage of each slope category on the site. When site-specific conditions indicate the necessity, the department may require the topographic data to be field surveyed. When possible, the footprint of the proposed project shall be shown.

B. Geotechnical Reports. A geotechnical report shall be prepared by a professional engineer licensed by the state of Washington with experience in geotechnical engineering and shall address the existing geology, topographic and hydrologic conditions of the site, including an evaluation of the ability of the site to accommodate the proposed activity. The geotechnical report shall include at a minimum the following:

1. Site geology information required:
    a. Topographic Data. The submittal must include a contour map of the proposed site, at a scale of one inch equals twenty feet or as deemed appropriate by the department. Slopes shall be clearly delineated for the ranges between fifteen percent and twenty-nine percent, and thirty percent or greater, including figures for area coverage of each slope category on the site. When site-specific conditions indicate the necessity, the department may require the topographic data to be field surveyed. When possible, the footprint of the proposed project shall be shown;
    b. Subsurface Data. The submittal must include boring logs and exploration methods; soil and rock stratigraphy, groundwater levels, and seasonal changes of groundwater levels;
    c. Site History. The submittal must include a description of any prior grading, soil instability, or slope failure; and
    d. Seismic Hazard. The submittal shall include data concerning the vulnerability of the site to seismic events.
2. Geotechnical engineering information required:
    a. Slope stability studies and opinion(s) of slope stability;
    b. Proposed angles of cut and fill slopes and site grading requirements;
    c. Structural foundation requirements and estimated foundation settlements;
    d. Soil compaction criteria;
    e. Proposed surface and subsurface drainage;
    f. Lateral earth pressures;
    g. Vulnerability of the site to erosion;

h. Suitability of on-site soil for use as fill;

i. Laboratory data and soil index properties for soil samples; and

j. Building limitations.

3. Where a valid geotechnical report has been prepared within the last five years for a specific site, and where the proposed land use activity and surrounding site conditions are unchanged, said report may be utilized and a new report may not be required. If any changed environmental conditions are associated with the site or surrounding the site, or the proposed activity has changed, the applicant shall submit an amendment to the geotechnical report.

4. The development proposal may be approved, approved with conditions, or denied based on the department's evaluation of the ability of the proposed mitigation measures to reduce risks associated with the erosion and landslide hazard area.

5. Other critical areas or buffers on or adjacent to the site that may impact the proposal.

C. Performance Standards. The department shall evaluate all geotechnical reports for landslide and erosion hazard areas to insure that the following standards are met:

1. Location and extent of development:

a. The development shall be located to minimize disturbance and removal of vegetation;

b. Structures shall be clustered where possible to reduce disturbance and maintain natural topographic character; and

c. Structures shall conform to the natural contours of the slope, and foundations should be tiered where possible to conform to the existing topography of the site.

2. Design of development:

a. All development proposals shall be designed to minimize the building footprint and other disturbed areas;

b. All development shall be designed to minimize impervious surfaces;

c. Roads, walkways, and parking areas shall be designed to parallel the natural contours; and

d. Access shall be in the least sensitive area of the site.

3. The department may approve, approve with conditions, or deny development proposals based on these performance standards.

D. Buffer Requirements.

1. A buffer consisting of undisturbed natural vegetation and measured in a perpendicular direction from all landslide and erosion hazard areas shall be required. The buffer shall be from the top of the slope and toe of the slope of all landslide or erosion hazard areas that measure ten feet or more in vertical elevation change from top to toe of slope, as identified in the geotechnical report, maps, and field checking. The minimum buffer distance requirements from the top of slope and toe of slope of the landslide or erosion hazard areas shall be the same as for setbacks from slopes as identified in the Uniform Building Code.

2. To increase the functional attributes of the buffer, the director may require that the buffer be enhanced through the planting of indigenous species.

3. The edge of the buffer area shall be clearly staked, flagged, and fenced prior to any clearing, grading or construction. The buffer markers shall be clearly visible, durable, and permanently affixed to the ground. Site clearing shall not commence until the engineer has submitted written notice to the director that the buffer requirements of this chapter have been met. The buffer shall be permanently protected through a protective easement or other appropriate permanent protective measure.

E. Modification to Buffer Width. When a geotechnical report demonstrates that a lesser buffer distance may be achieved through design and engineering solutions, such reduced buffer and design and engineering solutions may be permitted. If a geotechnical report demonstrates that a greater buffer distance is needed, the greater buffer shall be required.

F. Building Setback and Construction Near Buffer. The setback for any proposed building or impervious surface from a buffer area shall be the same setback as required for that zoning district or ten feet, whichever is greater. No building or impervious surface shall be constructed closer than ten feet to any buffer area. Clearing, grading, and filling within the required setback shall only be allowed if the applicant can demonstrate that vegetation within the buffer will not be damaged.

Commented [AS14]: WDFW asks how can you clear without damaging vegetation? **The vegetation removal would occur in the setback, not in the buffer.

G. Erosion Control Plan. Erosion control plans shall be required for all regulated activities in erosion hazard areas.

(Ord. 1069 § 1 (part), 2006)

15.08.700 - Designation of fish and wildlife habitat conservation areas.

A. Fish and wildlife habitat conservation areas include:

1. Areas with species designated by the state or federal government as endangered, threatened or sensitive:

   a. Federally designated endangered and threatened species are identified by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service that are threatened to become endangered or are in danger of extinction. U.S. Fish and Wildlife Service and the National Marine Fisheries Service should be consulted for current listings.

   b. State-designated endangered, threatened, and sensitive species are those species native to the state of Washington that are in danger of extinction, threatened to become endangered, vulnerable, or are declining and are likely to become endangered or threatened without cooperative management. The State Department of Fish and Wildlife maintains the most current listing and should be consulted for current listing status.

2. State priority habitats and species of local importance. Fish and wildlife species requiring protective measures and/or management guidelines to ensure their perpetuation. Species may require protection due to their population status, sensitivity to habitat alteration, and/.or recreational, commercial, or tribal important. Priority habitats and species of local importance are as classified by the Washington Department of Fish and Wildlife. A priority habitat may consist of unique vegetation type of dominant plant species, a described successional stage, or a specific structural element (WAC 173-26-020(34)).

Commented [AS15]: The changes here in yellow are provided by WDFW. Matches their definitions. The change is to use the language provided by WDFW that we used in the definitions section above.

3. Naturally Occurring Ponds Under Twenty Acres. Naturally occurring ponds do not include ponds intentionally created from dry sites such as retention ponds, dikes, or wastewater treatment facilities, or landscape amenities, unless such ponds were intentionally created as mitigation or as restoration.

4. Waters of the State. All watercourses under the jurisdiction of the state of Washington.

5. Lakes, ponds, streams and rivers stocked or planted with game fish by a governmental or tribal entity.

6. State natural areas and natural resource conservation areas as defined, established, and managed by the State Department of Natural Resources.

7. Essential land for preserving open spaces and connections between habitat blocks.

8. Fish and wildlife habitat conservation areas do not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie

Commented [AS16]: WDFW says they can support this exclusion for watercourses that are entirely artificial unless they exist in a natural watercourse that has been altered by humans.

within the boundaries of, and are maintained by, a port district or an irrigation district or company. Such watercourses must be entirely artificial and not constructed in a natural watercourse altered by humans.

B. All areas within the city of Woodland meeting one or more of these criteria, are hereby considered critical areas and are subject to this chapter.

C. Mapping. The following critical area maps are hereby adopted:

1. Department of Fish and Wildlife, priority habitat and species maps;
2. Department of Natural Resources, official water type reference maps; and
3. Department of Natural Resources, state natural area preserves and natural resource conservation area maps.

These maps are to be considered as references only and do not provide final critical area designation.

(Ord. 1069 § 1 (part), 2006)

15.08.710 - Critical area report—Additional requirements for habitat conservation areas.

In addition to the general critical area report requirements of Section 15.08.160 of this chapter, critical area reports for habitat conservation areas shall meet the requirements of this section. Critical area reports for two or more types of critical areas must meet the report requirements for each relevant type of critical area.

A. Prepared by Qualified Professional. A critical report for a habitat conservation area shall be prepared by a qualified professional biologist with experience preparing reports for the appropriate type of habitat.

B. Area Addressed in Critical Area Report. The following areas shall be addressed in a critical area report for habitat conservation areas:

1. The total area of the proposed activity;
2. All habitat conservation areas and recommended buffers within two hundred feet of the project area; and
3. All shoreline areas, floodplains and other critical areas with related buffers within two hundred feet of the project area.

C. Habitat Assessment. A habitat assessment or investigation of the proposed project area that evaluates the presence of a potential fish or wildlife species or habitat shall be prepared. A habitat conservation area report shall contain an assessment of following site and proposal related information:

1. Detailed description of vegetation and other habitat features on and adjacent to the proposed project area;
2. Identification of any fish and wildlife habitat conservation area on or adjacent to the proposed project area;
3. An assessment of potential impacts to the species or habitat by the proposed project;
4. A discussion of any federal, state, or local special management recommendation that have been developed for species or habitats on or adjacent to the proposed project;
5. A detailed discussion of the potential impacts to the habitat by the proposed project, including impacts to water quality or quantity;

6. A discussion of measures, including avoidance, minimization and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded in accordance with Section 15.08.190 (Mitigation sequencing) of this chapter;

7. A discussion of continuing management practices that will protect habitat after the project site has been developed, including monitoring and maintenance programs.

D. Additional Information Required. The director may require additional information when the type of habitat or species dictates the need. The habitat management additional requirement shall include:

1. An evaluation by an independent qualified professional regarding the analysis and effectiveness of proposed mitigation or programs, including any recommendations as appropriate;

2. A request for consultation with the Washington Department of Fish and Wildlife; and

3. A detailed surface and subsurface hydrologic features both on and adjacent to the proposed project site.

(Ord. 1069 § 1 (part), 2006)

15.08.720 - Performance standards—General requirements.

A. Alterations Shall Not Degrade the Functions and Values of Habitat. A habitat conservation area may only be altered if the proposed alteration of the habitat does not degrade the quality or quantity of functions or values of the habitat. All new structures are prohibited from habitat conservation areas except in accordance with this chapter.

B. Nonindigenous Species Shall Not Be Introduced. Unless authorized by a state or federal permit of approval, no species not indigenous to the region shall be introduced into a habitat conservation area.

C. Mitigation, Contiguous Corridors. Mitigation sites shall be located so as to achieve continuous habitat corridors in accordance with an approved mitigation plan.

D. Approvals May Be Conditioned. The director may condition approvals of allowed activities within or adjacent to habitat conservation areas or buffers. Conditions may include, but are not limited to, the following:

1. Establishment of buffer zones;

2. Preservation of critically important vegetation;

3. Limiting access, including fencing;

4. Seasonal restriction of construction activities.

E. Mitigation Shall Achieve Equivalent or Greater Functions. Mitigation activities shall achieve equivalent or greater biologic functions and shall include mitigation for adverse impacts upstream or downstream of the development site. Mitigation shall address each function.

F. Approval shall be supported by the best available science.

G. Buffers.

1. The director shall require buffer areas to be established for all activities in or adjacent to habitat conservation areas when needed for habitat protection. Buffers shall be undisturbed areas of native vegetation, or shall be areas identified for restoration, to protect the integrity, functions, and values of the affected habitat. Buffers shall reflect the sensitivity of the habitat and intensity of the proposed project, and shall be consistent with recommendations by the State Department of Fish and Wildlife. Buffers shall be preserved in perpetuity.

2. Seasonal Restrictions. If a species is more prone to disturbance during specific times of the year, seasonal restrictions may apply. Larger buffers may be required, and activities may be restricted during that specific season.

3. Habitat Buffer Averaging. The director may allow the recommended buffer width to be reduced in accordance with an approved critical area report, best available science, and management recommendations by the State Department of Fish and Wildlife. Averaging may only occur if:

   a. Averaging will not reduce habitat or stream functions;

   b. It will not adversely affect salmonid habitat;

   c. Additional natural resource protection such as buffer enhancement will be provided;

   d. The total of the averaged buffer area is not less than what would be contained in the standard buffer;

   e. The buffer area width is not reduced by more than twenty-five percent.

H. Signs and Fencing.

1. Temporary Markers. The outer perimeter of the habitat conservation area or buffer and the limits of the area to be disturbed shall be marked in such a way as to prevent unauthorized intrusion. The marking shall be verified by the director prior to any activities taking place. Temporary marking shall be maintained throughout the project timeline until permanent signs, if required, are in place.

2. Permanent Signs. The director may require permanent signs along the boundary of a habitat conservation area or buffer. The signs, if required, must be made of a durable material, mounted on a metal post. Signs shall be posted approximately fifty feet apart. The property owner shall maintain the signs.

3. Fencing.

   a. The director may require permanent fencing of a habitat conservation area or buffer when fencing will prevent future impacts to the area.

   b. Permanent fencing shall be required if domestic grazing animals are present or may be introduced in the future.

   c. If permanent fencing is required, it shall be the sole responsibility of the applicant to install and maintain.

   d. Fencing shall not interfere with species migration and shall be installed in a manner that minimizes habitat impacts.

I. Subdivisions/Short Subdivisions.

1. Land that is located entirely within a habitat conservation area or its buffer shall not be subdivided. Buffer areas shall be identified on the face of subdivision maps and shall be protected in perpetuity with conservation covenants, deed restrictions, or other legally binding mechanisms.

2. Land that is located partially within a habitat conservation area or buffer may be divided provided an accessible portion of each new lot is located outside the conservation area or buffer. A lot may be subdivided into lots outside the conservation area or buffer and a lot entirely within the buffer area, so long as the lot within the conservation area or buffer area is designated as not developable on the final plat.

Commented [AS17]: WDFW: Preferred. In my experience this seems to afford better protection. Is there a way to offer some incentive to do this? Bonus lot, higher density, etc.?

3. Roads and utilities serving the proposed subdivision may only be permitted in the conservation area or buffer if the city determines that no other feasible alternative exists and adverse impacts to critical areas and buffers are fully mitigated in accordance with all mitigation and critical area report requirements of this chapter.

(Ord. 1069 § 1 (part), 2006)

15.08.730 - Performance standards—Specific habitats.

A. Endangered, Threatened and Sensitive Species.

1. No development shall be allowed within a habitat conservation area or buffer where state or federally endangered, threatened, or sensitive species have a primary association.

2. Proposed activities adjacent to a conservation area where state or federally endangered, threatened, or sensitive species have a primary association shall be protected in accordance with an approved critical area report. No activity shall be permitted prior to consultation with the State Department of Fish and Wildlife and/or appropriate federal agency.

3. ~~Bald eagle habitat shall be protected pursuant to Washington State Bald Eagle Protection Rules (WAC 232-12-292). For activities proposed adjacent to a verified nest or communal roost a habitat management plan shall be developed by a qualified professional. Activities are adjacent to a bald eagle site when they are within eight hundred feet or within two thousand six hundred forty feet and in a shoreline foraging area. The city shall verify the location of eagle management areas for each proposed activity. Approval of the activity shall not occur prior to approval of the habitat management plan by the Department of Fish and Wildlife.~~

   Bald Eagle Management Plans are no longer required by Washington Department of Fish and Wildlife because eagles are now classified as a sensitive species and not threatened or endangered. However, the City will still verify the location of eagles and eagle nests as part of critical areas review and will defer to both the Washington Department of Fish and Wildlife and the US Fish and Wildlife Service (USFWS) for regulation of development on lands adjacent to eagles and eagle nests.

Commented [AS18]: WDFW:
WDFW no longer requires or reviews eagle management plans. We largely defer to federal regulations and do not assume a regulatory role for eagle management. We recommend that the US Fish and Wildlife Service (USFWS) be the lead agency for advice on land use around nests. You can find a summary of our position here: http://wdfw.wa.gov/conservation/bald_eagle/ and USFWS guidance here: http://www.fws.gov/pacific/eagle/ .

WDFW still appreciates notice of active nests so that we can maintain accurate maps of known nest locations.

We are available to discuss sites, talk about the federal guidelines, etc. However USFWS will provide technical assistance to landowners to avoid take due to disturbance.

B. Anadromous Fish.

1. All activities, uses, and alterations proposed to be located within water bodies used by anadromous fish or in areas that affect such water bodies shall give special consideration to the preservation and enhancement of anadromous fish habitat, including, but not limited to the following:

   a. Activities shall be timed in accordance with the allowable work window as specified by the Department of Fish and Wildlife for the applicable species;

   b. The activity is designed so it will not degrade the functions or values of the fish habitat or other critical areas;

   c. Any impacts to the functions or values are mitigated in accordance with an approved critical area report;

   d. Hydraulic project approval may be required from the Department of Fish and Wildlife.

C. Wetland Habitats. All proposed activities within or adjacent to habitat conservation areas containing wetlands shall conform to the wetland portion of this chapter. If wetland and nonwetland critical areas are present at the same location, the provisions that afford the greatest protection shall apply.

D. Riparian Habitat Areas. Unless otherwise allowed in this chapter, all structures and activities shall be located outside of the riparian habitat area.

1. Establishment of Riparian Habitat Areas. Riparian areas shall be established for habitats that include aquatic and terrestrial ecosystems that mutually benefit each other, and are located adjacent to rivers, perennial or intermittent streams, and springs.

2. Riparian Habitat Area Widths. Riparian habitat area widths shall be as shown in the following table:

Table 15.08.730-1

Riparian Habitat Areas (RHA)

Stream Type	RHA Width
Type 1(S) and 2(F); or shorelines of the state, or shorelines of statewide significance	250 feet
Type 3(F); or other perennial or fish bearing streams, 5-20 feet wide	200 feet
Type 3(F); or other perennial or fish bearing streams, <5 feet wide	150 feet
Type 4(Np) and 5(Ns); or intermittent streams and washes with high mass wasting potential	225 feet
Type 4(Np) and 5(Ns); or intermittent streams and washes with low mass wasting potential	100 feet

A riparian habitat shall have the width specified unless a greater width is required, or a lesser width is allowed. Widths shall be measured from the ordinary high water mark or from the top of the bank if the ordinary high water mark cannot be identified.

3. Riparian Habitat Required. A riparian habitat area shall apply only to projects permitted after the adoption date of the ordinance codified in this chapter.
4. Increased Riparian Widths. Riparian habitat widths shall be increased when:
    a. The director determines that the recommended width is insufficient to prevent habitat degradation and to protect the functions of the habitat area;
    b. A channel migration zone exceeds the recommended riparian width. The width shall be extended to the outer edge of the channel migration zone;
    c. The riparian area is in an area of high blowdown potential. The riparian habitat area shall be expanded an additional fifty feet on the windward side;
    d. The riparian area is within an erosion or landslide area. The buffer width will be that of the critical area affording the greatest protection.
5. Riparian Habitat Area Width Averaging. The director may allow the riparian habitat area width to be averaged in accordance with a critical area report only if:
    a. The reduction will not degrade the habitat;
    b. The reduction will not reduce the stream or habitat functions;
    c. The reduction will not reduce non-fish habitat functions;
    d. Additional habitat protection will be provided;
    e. The total area of the riparian area is not reduced by more than twenty-five percent in any one location;

f. The total area of the riparian area is not decreased;

g. The reduction in width will not be within another critical area or buffer; and

h. The reduction in habitat area is supported by best available science.

6. Riparian Habitat Mitigation. Mitigation of adverse impacts shall result in equivalent functions and values on a per function basis. The mitigation shall be located as near the alteration as possible, and be located in the same sub-drainage basin as the impacted habitat.

7. Alternative Mitigation for Riparian Areas. If the applicant demonstrates that greater habitat functions can be obtained as a result of alternate mitigation measures, the director may modify the requirements of the performance standards of this section, including the riparian habitat area buffers.

8. Use of Buffer Area. Buffers for fish and wildlife habitat conservation areas not subject to the shoreline master program, shall follow the same rules as those outlined in Section 15.08.400(L) of this chapter.

9. Functionally Isolated Riparian Habitat Area. Areas which are functionally separated from a riparian habitat area due to preexisting roads, structures, or similar circumstances, shall be excluded from buffers otherwise required by this chapter on a case-by-case basis subject to a critical area report and review as determined by the director.

E. Aquatic Habitat/Shoreline Jurisdiction. The following activities may be permitted within a riparian habitat area when the activity is done in accordance with the shoreline management program and this chapter, including Section 15.08.040:

1. Clearing and grading as part of a permitted activity.

a. Grading is allowed only in the dry season as determined by the director.

2. Shoreline Erosion Control. Shoreline erosion control measures may be permitted in accordance with an approved shoreline permit and critical areas report that demonstrates the following:

a. Natural shoreline process will be maintained;

b. There will be no increased beach or other erosion;

c. Fish and wildlife habitat will not be degraded;

d. There is no net loss of functions or values.

3. Streambank Stabilization. Only in accordance with an approved critical area report and shoreline permit.

4. Boat Ramps. Boat ramps may be permitted in accordance with a shoreline permit and approved critical area report that demonstrates the following:

a. Natural shoreline process will be maintained;

b. There will be no increased shoreline, bank or other erosion;

c. Fish and wildlife habitat will not be degraded;

d. There is no net loss of functions or values.

5. Roads, Bridges, Rights-of-Way. Roads, bridges, and rights-of-way may be permitted up to thirty feet wide in accordance with a shoreline permit and approved critical area report that demonstrates the following:

a. There is no feasible alternative route with less environmental impact;

b. Roads do not run parallel to the water body;

d. Crossings shall be as near perpendicular to the water body as possible;

Commented [AS19]: Trails were originally included in this section and WDFW: a 30-foot wide trail is a bit much. Might want to describe trails separately.

e. Mitigation for impacts is provided;

6. Walking paths or trails (no motorized use) located in the outer twenty-five percent of the buffer area. Trails shall, to the extent feasible, be placed on existing road grades, utility corridors, or any other previously disturbed area and may need to be enhanced with screening. Trails or paths within a wetland or buffer area shall be planned to minimize removal of vegetation (trees, shrubs, etc.) and important wildlife habitat. Trail widths shall not be wider than three feet for private trail and ten feet for public use or publicly owned trails. Trail surfaces shall be made or constructed of pervious surfaces (natural materials like wood chips) and permanent surfacing materials (asphalt or concrete) shall require a variance. No construction or surfacing materials shall significantly alter the existing drainage or negatively affect the wetland or buffer area;

Commented [AS20]: This is the separate section for trails that WDFW recommended. This is the same language as in the other trail area in the code.

Commented [AS21]: Language requested by WDFW.

7. Utility Facilities. New utility lines and facilities may be permitted in accordance with an approved critical area report that demonstrates compliance with the following:

   a. Fish and wildlife area shall be avoided to the maximum extent possible;

   b. Utilities shall cross at an angle greater than sixty degrees;

   c. Crossings shall be contained within an existing road or utility crossing where feasible;

   d. The utility shall avoid paralleling a stream;

   e. The utility shall not increase or decrease the natural rate of shore or channel migration.

7. Public Flood Protection Measures. Public flood protection measures may be permitted subject to the city's review and approval of a critical area report and shoreline permit.

8. Instream Structures. May be permitted in accordance with an approved critical area report and shoreline permit. The structure shall be designed to avoid modifying flows and adversely affecting water quality. A Hydraulic Project Approval from the Washington Department of Fish and Wildlife is likely required.

Commented [AS22]: Requested language by WDFW.

9. Stormwater Conveyance Facilities. Conveyance facilities may be permitted in accordance with an approved critical area report subject to the following:

   a. No other feasible alternatives with less impact exist;

   b. Mitigation for impacts is provided;

   c. Conveyance facilities shall incorporate habitat features; and

   d. Vegetation shall be maintained.

10. On-Site Sewage Systems and Wells.

   a. New on-site sewage systems and individual wells may be permitted in accordance with an approved critical area report only for residences where it is not feasible to connect to the public sanitary sewer system.

   b. Repairs to failing on-site sewage systems associated with an existing structure shall be by utilizing one of the following methods that results in the least impact:

      i. Connection to the public sanitary sewer system;

      ii. Replacement with a new on-site system located in a portion of the site that has already been disturbed;

      iii. Repair to the existing system.

(Ord. 1069 § 1 (part), 2006)

Building & Planning Project Update (highlights)

(As of November 10, 2016 – supplement to DRC notes)

- Comprehensive Plan Update:
  - The Comprehensive Plan was adopted by Council in March and became effective on April 21, 2016.
  - The Critical Areas Ordinance must be updated as part of the Comprehensive Plan update and is due by December 2016.
    - The draft critical areas update was before Planning Commission on August 18, September 15, 2016, and October 13, 2016.
    - Planning Commission will review the Critical Areas Ordinance update further during the November 17, 2016 meeting.

- The Notice of Application for the Scott Hill Park proposal was issued on September 19, 2016 with a comment period ending on October 5, 2016. A second Notice of Application was issued on October 20, 2016 with a comment period ending on November 5, 2016.

- The Notice of Decision for Northeast Electric was issued on October 21, 2016.

- The Notice of Application for the Cellular Plus/retail buildings was issued on October 17, 2016 with a comment period ending on November 2, 2016.

- The Notice of Application for Woodland Commons, a mixed-use development downtown, was issued on October 17, 2016 with a comment period ending on November 2, 2016.

- The Notice of Decision for Columbia River Carbonate's pelletizing plant addition was issued on November 3, 2016.

- The City was awarded a Community Economic Revitalization Board (CERB) grant for downtown revitalization in the amount of $22,500. The contract is being signed and the early stages of the program are being established.

- City Council held a workshop for the proposed C-1 height increase and residential/commercial use change. They decided to eliminate the allowance for residential on the bottom and allow a fourth story by conditional use. This item passed first reading before Council on November 7, 2016. Final reading will be before Council on November 21, 2016.

- City Council passed first reading of Community Development Department code change on November 7, 2016. Final reading will be before Council on November 21, 2016.

- One single-family residence permit was issued in October 2016: 415 Lilac Lane.