



CITY OF WOODINVILLE, WA
REPORT TO THE CITY COUNCIL
17301 133rd Avenue NE, Woodinville, WA 98072
WWW.CI.WOODINVILLE.WA.US

To: Honorable City Council **Date:** 06/16/2015
From: Richard A. Leahy, City Manager *RAL*
By: David Kuhl, Development Services Director *DK*
Subject: 2nd Reading Ordinance No. 605 Critical Area Regulations

ISSUE: Shall the City Council pass second reading and adopt Ordinance No. 605 to make code amendments associated with a best available science review for Critical Area Regulations?

RECOMMENDATION: To pass second reading and adopt Ordinance No. 605, as presented.

POLICY ISSUE/BACKGROUND DISCUSSION: As part of the 2015 Comprehensive Plan update, the City is required to review and update its critical area regulations "Best Available Science" (BAS). Critical Areas include:

1. Critical Aquifer Recharge Areas
2. Frequently Flooded Areas
3. Geologically Sensitive Areas
4. Wetlands
5. Fish and Wildlife Habitat

Ordinance No. 605 attempts to fulfill this requirement by including BAS and revising our regulations to be consistent with state law. Please refer to the previous staff presentations of April 14, 2015 and June 2, 2015 for an in depth discussion of the proposed changes to our Critical Area Regulations.

ALTERNATIVES:

- 1: Pass second reading and adopt Ordinance No. 605, as presented.
- 2: Do not pass second reading.

RECOMMENDED MOTION:

I MOVE TO PASS SECOND READING AND ADOPT ORDINANCE NO. 605, AS PRESENTED, REGARDING THE CODE AMENDMENTS ASSOCIATED WITH A BEST AVAILABLE SCIENCE REVIEW FOR CRITICAL AREA REGULATIONS.

Attachment 1: Exhibit List
Attachment 2: Ordinance No. 605

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CITY COUNCIL EXHIBIT LIST 2015 Comprehensive Plan and Code Amendments Update		
Exhibit No.	Description	No. of pages
1	Staff Report to Planning Commission dated January 7, 2015	2
2	Draft Comprehensive Plan Update 2015	135
3	Draft Municipal Code Update Title 21 and Best Available Science Review	267
4	Draft Environmental Impact Statement	288
5	Revised Draft Existing Conditions Report	139
6	Outline of Supplemental Revisions and Information – Planning Commission Hearing, January 7, 2015, with Supplements A, B, and C A – Transportation Element with Amendments: Replaces Chapter 6 of Draft Comprehensive Plan B – Municipal Code Edits: Replaces Pages “Code Update/BAS 3” through “Code Update/BAS 48” of the Municipal Code Update & Best Available Science Review Document. C – Fiscal Analysis: Additional Information under Separate Cover “Woodinville Comprehensive Plan Update Fiscal Analysis”	6 17 47 28
7	Planning Commission Public Hearing Notice and Declaration of Posting	3
8	Notice of Availability 2015 Comprehensive Plan & Municipal Code Update and Draft Planned Action EIS and Affidavit of Publication	4
9	Acknowledgement Letter from Washington State Department of Commerce dated November 18, 2014	1
10	Citizens Comments (Email sent 12/16/2014 @ 9:58 AM from Steven Mullen-Moses, Director of Archaeology & Historic Preservation, Snoqualmie Tribe to Dave Kuhl; Email sent 11/06/2014 @ 4:47 PM from Nancy Cassell to Woodinville City Council; Open House Comment Cards)	7
11	Citizen Comments (Letter from Collins Woerman dated January 7, 2015)	2
12	Public Hearing Sign-Up Sheet for January 7, 2015	3
13	PowerPoint Presentation to Planning Commission January 7, 2015 – Comprehensive Plan & Municipal Code Update	56

14	Staff Report to Planning Commission dated January 21, 2015	1
15	Citizens Comments (Letter from Housing Development Consortium to the Planning Commission dated June 4, 2014)	2
16	Memo from Bob Bengford of Makers to the Planning Commission dated January 20, 2015	2
17	Staff Handout to Planning Commission of PowerPoint Presentation for January 21, 2015 (Transportation Element)	8
18	PowerPoint Presentation to Planning Commission January 21, 2015 – Comprehensive Plan & Municipal Code Update	15
19	PowerPoint Presentation to Planning Commission January 21, 2015 – Public Hearing Comprehensive Plan Transportation Element	16
20	Citizen Hand Out from Susan Boundy-Sanders – Types of Shopping Centers	1
21	January 21, 2015, Continued Public Hearing Sign-Up Sheet for Draft 2015 Comprehensive Plan & Municipal Code Update	3
22	Staff Report to Planning Commission dated February 4, 2015	2
23	Email sent January 9, 2015, @ 2:47 PM, from Karen Walter, Watersheds and Land Use Team Leader, Muckleshoot Indian Tribe Fisheries Division, to Dave Kuhl, Development Services Director.	21
24	Memorandum dated January 27, 2015, from Lisa Grueter, Manager, BERK Consulting, to Dave Kuhl, Development Services Director, City of Woodinville, RE: Responses to Comments from Muckleshoot Indian Tribe, January 9, 2015.	6
25	Citizen Comments: Email sent January 17, 2015 @ 2:40 PM from Jim Hansink to Thomas Hansen with Email from Thomas Hansen to Jim Hansink sent January 20, 2015 @ 7:56 AM.	3
26	<p>Memorandum dated January 28, 2015, from Lisa Grueter, Manager, BERK Consulting, to Dave Kuhl, Development Services Director; Members of the Woodinville Planning Commission, RE: Comprehensive Plan and Municipal Code Update and EIS – Status of Documents and Responses to Comments, with Zipper Geo Associates, LLC, attachment (Zipper Geo Associates, LLC, letter dated January 15, 2015, Project No. 1407.08, addressed to City of Woodinville, Attn: Mr. Thomas E. Hansen, PE, Public Works Director).</p> <p>Note: The Zipper Geo Associates attachment is a peer review of documents and information sources, including Golder Associates review found in Exhibit 3 -The Municipal Code Update & Best Available Science Review November 2014, pages Code Update/BAS 245 – 264.</p>	16

27	PowerPoint Presentation to Planning Commission February 4, 2015 – Economic Development	13
28	PowerPoint Presentation to Planning Commission February 4, 2015 – 2015 Comprehensive Plan Update – Parks, Recreation, & Open Space; Capital Facilities; Utilities	16
29	PowerPoint Presentation to Planning Commission February 4, 2015 – Comprehensive Plan–Geologic Hazard and Critical Aquifer Recharge Areas Update	22
30	February 4, 2015, Continued Public Hearing Sign-Up Sheet for Draft 2015 Comprehensive Plan & Municipal Code Update	3
31	Staff Report to Planning Commission dated February 18, 2015	1
32	Citizen Comments: Documents received from Susan Boundy-Sanders February 10, 2015	5
33	Memo dated February 18, 2015, from Jenny Ngo, Sr. Planner, to Planning Commission	3
34	Email sent February 17, 2015 @ 8:32 PM from Susan Boundy-Sanders to Planning Commissioners, Dave Kuhl, Paula Waters, and Sandy Guinn (with attachments)	9
35	PowerPoint Presentation to Planning Commission February 18, 2015	18
36	Staff Hand Out to Planning Commission February 18, 2015	9
37	Email sent Sunday, February 08, 2015, 5:43 PM, from director@woodinvillechamber.org to Dave Kuhl	2
38	Sign Up Sheet for Planning Commission February 15, 2015, Public Hearing	6
39	Staff Report to Planning Commission dated March 4, 2015	1
40	Memorandum from Lisa Grueter, Manager, BERK Consulting, dated February 26, 2015, to Dave Kuhl, Development Services Department Director, RE: Responses to Comments on Comprehensive Plan and Related Components	122
41	Planning Commission Comments	18
42	Email from Thomas Hansen sent Tuesday, March 03, 2015, 12:11 PM, to Lisa Grueter, cc to Dave Kuhl; Michael Read, PE, Subject: questions on capacity for 171st	1
43	Memorandum dated March 3, 2015, from Lisa Grueter, Manager, BERK Consulting, to Dave Kuhl, Development Services Department Director, RE: Supplemental Memo: Responses to Comments on Comprehensive Plan and Related Components	12

44	Staff's PowerPoint Presentation to Planning Commission March 4, 2015	17
45	March 4 th Planning Commission Continued Public Hearing Sign-Up Sheet	3
46	Staff Report to Planning Commission dated 03/18/15 regarding Ordinance No. 591, 2015 Comprehensive Plan Update	2
47	Draft Ordinance 591	3
48	Planning Commission Public Hearing Notice and Declaration of Public Notice	6
49	Staff Report to Planning Commission dated 03/18/15 regarding Ordinance No. 606 Planned Action for the Central Business District	1
50	Draft Ordinance 606	39
51	City of Woodinville Community Meeting: Discussion Guide regarding Draft Planned Action for the Central Business District	4
52	Staff Report to the Planning Commission dated March 18, 2015, regarding Ordinance No. 605 Critical Areas Ordinance	2
53	3-18-15 Draft Critical Areas Regulations with mark ups	26
53 Revised	3-18-15 Draft Critical Areas Regulations with mark ups and comments	25
54	3-18-15 Draft Critical Areas Regulations without mark ups	19
55	Reserved for <u>Draft</u> Ordinance No. 605	2
56	Email sent March 18, 2015 12:34 PM from Sharon Peterson to Jenny Ngo	1
57	Memorandum dated March 12, 2015, from Lisa Grueter, Manager, BERK Consulting, to Dave Kuhl, Development Services Director; Members of the Woodinville Planning Commission, RE: Responses to Comments from Puget Sound Regional Council	15
58	Letter dated March 18, 2015, from Karen Mooseker, Director, Capital Projects, Northshore School District, to Dave Kuhl, Director Development Services	1
59	Email sent March 18, 2015 @ 12:56 PM from Kathy Heywood to Sandy Guinn; Dave Kuhl	1
60	Staff's PowerPoint Presentation to Planning Commission March 18, 2015, regarding Comprehensive Plan & Municipal Code Update	19
61	March 18, 2015, Continued Public Hearing Sign-Up Sheet for Ordinance 591	2

62	Letter dated March 18, 2015, from Joan B. Yim, AICP, Woodinville Resident, to City of Woodinville, Planning Commission, regarding Ordinance's 591 and 606	2
63	Planning Commission March 18, 2015, Continued Public Hearing Sign-Up List for Ordinance No. 606 – Planned Action for the Central Business District	2
64	Planning Commission March 18, 2015, Continued Public Hearing Sign-Up List for Ordinance No. 605 – Critical Areas Ordinance	2
65	Staff Report to Planning Commission dated 03/25/15 regarding Ordinance No. 606 Planned Action for the Central Business District	2
66	Staff Report to Planning Commission dated 03/25/15 regarding Ordinance 605 Critical Areas Ordinance	2
67	Staff's PowerPoint Presentation to Planning Commission March 25, 2015 regarding Ordinance 605 – Critical Areas Ordinance	23
68	Staff's PowerPoint Presentation to Planning Commission March 25, 2015 regarding Ordinance 606 – Planned Action for the Central Business District	13
69	Sign-Up Sheet for Planning Commission March 25, 2015, Public Hearing regarding Ordinance 605 – Critical Areas Ordinance	2
70	Sign-Up Sheet for Planning Commission March 25, 2015, Public Hearing regarding Ordinance 606 – Planned Action for the Central Business District	2
71	Staff Report to Planning Commission dated April 1, 2015, regarding Ordinance 605 Critical Areas Ordinance	2
72	Critical Areas Ordinance without mark ups (March 26, 2015)	43
73	Critical Areas Ordinance with mark ups (March 26, 2015)	60
74	Staff's PowerPoint Presentation to Planning Commission April 1, 2015 regarding Ordinance 605 – Critical Areas	47
75	Continued Public Hearing April 1, 2015, Sign-Up Sheet for Ordinance 605	2
76	Letter dated March 18, 2015 addressed to Woodinville City Hall, Attn: Planning Commission from John Evans, EPN Companies, with maps and PowerPoint Presentation presented by AHBL to Planning Commission on March 18, 2015	23
77	Summary of Planning Commission Recommendations of Ord No. 591: 1) Comprehensive Plan Recommendations, and 2) Parks, Recreation and Open Space Plan Recommendations. Includes comparison of 2009 Comp Plan and the Planning Commission's recommendations.	42
78	Proposed Ord No. 591. Includes Exhibit A: Public Participation Process; Exhibit B: Findings and Recommendations of the Planning Commission; Exhibit C: Proposed 2015 Comp Plan as recommended by the Planning Commission March 18, 2015 and Exhibit D: Parks, Recreation and	274

	Open Space Plan as recommended by the P & R Commission Feb. 5, 2015	
79	Proposed Ord No. 605 Critical Areas as recommended by the Planning Commission on April 1, 2015	59
80	Proposed Ord No. 606 Planned Action for Central Business District as recommended by the Planning Commission on March 25, 2015	37
81	Written Public Comments: Dated 4-3-2015, From: John Evans, Subject: Request to Include Zante Property in City's UGA, Includes letter and Presentation	14
82	April 14, 2015 Public Hearing Notice (DSD sent to Party of Record, EIS Mailing List)	1
83	City of Woodinville staff report From City Manager Rich Leahy; By Dave Kuhl, Development Services Director; To Council - Dated: 04/14/2015	44
84	Berk's and Maker's PowerPoint Presentation to Council April 14, 2015 regarding Ordinance 591 Proposed Comprehensive Plan and Land Use Plan	43
85	Staff's PowerPoint Presentation to Council April 14, 2015 regarding Ordinance 591 Parks, Recreation, & Open Space	4
86	Staff's PowerPoint Presentation to Council April 14, 2015 regarding Ordinance 605 – Critical Areas Ordinance	18
87	Dave Findley's, Golder Associates, PowerPoint Presentation to Council April 14, 2015 regarding Critical Areas and Geological Resources	15
88	Golder Associates Draft Technical Memorandum Handout to Council April 14, 2015 Re: Landslide Hazard Mapping-Additional Evaluation	21
89	Berk's PowerPoint Presentation to Council April 14, 2015 regarding Ordinance 606 – Planned Action for the Central Business District	11
90	April 14, 2015, Public Hearing Sign-Up Sheet for Ordinance 591, 605 and 606	2
91	May 5 and May 12, 2015 Public Hearing Notice (DSD sent to Party of Record)	3
92	Staff Report to Council dated May 5, 2015, regarding Public Hearing for the 2015 Comprehensive Plan (includes Exhibit List date 4-28-2015)	7
93	Memorandum dated April 27, 2015, from Lisa Grueter, Manager, BERK Consulting, to Dave Kuhl, Development Services Director; RE: Updated Geologic Hazard Maps	4
94	Memorandum dated April 27, 2015, from Lisa Grueter, Manager, BERK Consulting, to Dave Kuhl, Development Services Director; RE: City Council Questions Regarding Growth Targets	23
95	May 5, 2015, Public Hearing Sign-Up Sheet for Ordinance 591, 605 and 606	2

96	Citizen Comments (Email Letter from Michael Tanksley, President, Hollywood Hill Association, dated May 5, 2015 10:18 AM, 2015) Subject: Re: Comments on E-P & Co.'s request letter, re: Fred Zante farm	9
97	Berk's and Maker's PowerPoint Presentation to Council May 5, 2015 regarding Ordinance 591 Proposed Comprehensive Plan and Land Use Plan	31
98	Staff Report to Council dated May 12, 2015, regarding Public Hearing for the 2015 Comprehensive Plan (includes Exhibit List date 4-28-2015)	7
99	May 19, 2015 Public Hearing Notice (DSD sent to Party of Record)	1
100	May 12, 2015, Public Hearing Sign-Up Sheet for Ordinance 591, 605 and 606	2
101	Councilmember Boundy-Sanders Email Comment Re: Draft Revision to Com Plan Vision Statement Dated 5-12-2015	2
102	City Manager Leahy's Powerpoint Presentation to Council May 12, 2015 regarding Ordinance 591 Proposed Comprehensive Plan and Land Use Plan	18
103	Staff Report to Council dated May 19, 2015, regarding Public Hearing for the 2015 Comprehensive Plan (includes Exhibit List date 5-07-2015)	8
104	Councilmember Boundy-Sanders Email Comment Re: Comp Plan Comments with attachment Dated 5-14-2015	4
105	Councilmember Waters Email Comment Re: Edits to Proposed COW 2015 Comp Plan	2
106	May 19, 2015, Public Hearing Sign-Up Sheet for Ordinance 591, 605 and 606	2
107	Staff's and Berk's Powerpoint Presentation to Council May 19, 2015 regarding Ordinance 591 Proposed Comprehensive Plan and Land Use Plan	12
108	June 2, 2015 Public Hearing Notice (DSD sent to Party of Record)	1
109	Revised Existing Conditions Report May 2015 (provided to Council on 6-2-2015)	209
110	FEIS Notice of Availability and Cover Letter (provided to Council on 6-2-2015)	4
111	Final Environmental Impact Statement June 2015 (provided to Council on 6-2-2015)	400
112	June 2, 2015, Public Hearing Sign-Up Sheet for Ordinance 591, 605 and 606	2
113	Staff Report to Council dated June 2, 2015, regarding Public Hearing for the 2015 Comprehensive Plan (includes Exhibit List date 5-21-2015)	8

114	Staff's and Berk's Powerpoint Presentation to Council June 2, 2015 regarding Ordinance 591 Proposed Comprehensive Plan and Land Use Plan	33
115	June 9, 2015 Public Hearing Notice (DSD sent to Party of Record)	1
116	Supplemental Edits from Lisa Grueter and Jennifer Kuhn dated 6-2-2015	1

Updated June 8, 2015

ORDINANCE NO. 605

AN ORDINANCE OF THE CITY OF WOODINVILLE, WASHINGTON REGULATING LAND USE AND DEVELOPMENT OF CRITICAL AREAS; APPROVING FINDINGS OF FACT; AMENDING CHAPTER 21.24 OF THE WOODINVILLE MUNICIPAL CODE; PROVIDING FOR SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE AND FOR SUMMARY PUBLICATION BY ORDINANCE TITLE ONLY.

WHEREAS, the Growth Management Act ("GMA") and RCW 36.70A.130(5)(a) requires that Woodinville, along with King County and the other cities within King County take action on or before June 30, 2015 to review, and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of Chapter 36.70A RCW; and

WHEREAS, the GMA requires the City to review and, if necessary, revise development regulations to protect critical areas based upon the best available science; and

WHEREAS, City staff together with the City's consultant for 2015 Comprehensive Plan and Municipal Code Updates have drafted revised critical area regulations based upon several resources, including: best available science as summarized in a report prepared by the Watershed Company, the Gap Analysis prepared by the Watershed Company, Wetland and CAO Update guidance from the Department of Ecology, Critical Areas Assistance Handbook from the Department of Commerce, and from staff experience implementing current regulations; and

WHEREAS, the City Planning Commission held public hearings on and reviewed the draft regulatory changes on March 18, 2015, March 25, 2015 and April 1, 2015 and made its recommendations for approval on April 1, 2015; and

WHEREAS, the City Council following public hearings on April 14, 2015, May 5, 2015, May 12, 2015, May 19, 2015, June 2, 2015, and June 9, 2015 and it's review and deliberation concurs with the Recommendation of the Planning Commission with those revisions to those recommendations as set forth in the revised Chapter 21.24 WMC attached to this Ordinance as Exhibit A, which Exhibit A is incorporated by this reference herein as if specifically set forth; and

WHEREAS, the proposed update to the City's critical area regulations were submitted to the State Department of Commerce for comment on November 18, 2014 and its comments have been received and considered; and

WHEREAS, the City Council finds that this ordinance complies with the adoption requirements of the Growth Management Act, Chapter 36.70A RCW,

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

Section 1. Findings. The City Council hereby approves as findings in support of this ordinance the above recitals, including the incorporation by reference of Exhibit A.

Section 2. Approval of Amendments to Chapter 21.24 WMC. The amendments to Chapter 21.24 of the Woodinville Municipal Code set forth in Exhibit A hereto are hereby approved and adopted. Section 21.24, is hereby amended to read as set forth below (new text is shown by

underline; deletions of text are shown by strikethrough); all other provisions of this section shall remain unchanged and in full force and effect.

Section 3. Copy to Department of Commerce. Pursuant to RCW 36.70A.106(3), the City Clerk is directed to send a copy of this ordinance to the State Department of Commerce for its files within ten days after adoption of this ordinance.

Section 4. Severability. If any section, sentence, clause or phrase of this ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 5. Effective Date and Summary Publication. This ordinance shall become effective five days after passage and publication. The City Clerk is directed to publish a summary of this ordinance at the earliest possible publication date by publication of the ordinance title.

**ADOPTED BY THE CITY COUNCIL AND SIGNED IN AUTHENTICATION OF ITS
PASSAGE THIS __ DAY OF _____, 2015.**

Bernard W. Talmas, Mayor

ATTEST/AUTHENTICATED:

Jennifer L. Kuhn, CMC
City Clerk

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

Greg A. Rubstello
City Attorney

PASSED BY THE CITY COUNCIL: XXXX
PUBLISHED: XXXX
EFFECTIVE DATE: XXXX
ORDINANCE NO. 605

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1 Chapter 21.24
2 DEVELOPMENT STANDARDS – CRITICAL AREAS

3
4 Sections:

- 5 21.24.010 Purpose.
- 6 21.24.020 Applicability.
- 7 21.24.030 Critical area maps and inventories.
- 8 21.24.040 Complete exemptions.
- 9 21.24.050 Nonconforming development.
- 10 21.24.060 Public agency and utility critical areas exceptions.
- 11 21.24.070 Reasonable use exceptions.
- 12 21.24.080 Subdivisions and density calculations within critical areas.
- 13 21.24.090 Disclosure and notice on title.
- 14 21.24.100 Critical area determination.
- 15 21.24.110 Critical areas report requirement.
- 16 21.24.120 Mitigation requirements.
- 17 21.24.130 Maintenance, monitoring, and contingency.
- 18 21.24.140 Critical area markers and signs.
- 19 21.24.150 Native growth protection areas and designations on site plans.
- 20 21.24.200 Critical aquifer recharge areas – Designation.
- 21 21.24.210 Critical aquifer recharge areas – Development standards.
- 22 21.24.220 Critical aquifer recharge areas – Permitted activities.
- 23 21.24.230 Critical aquifer recharge areas – Critical areas report additional requirements.
- 24 21.24.250 Geologically sensitive areas – Designation.
- 25 21.24.260 Geologically sensitive areas – Erosion and landslide hazards.
- 26 21.24.270 Geologically sensitive areas – Seismic hazard areas and other hazard areas.
- 27 21.24.300 Wetlands – Designation and rating.
- 28 21.24.310 Wetlands – Development standards.
- 29 21.24.320 Wetlands – Permitted activities.
- 30 21.24.330 Wetlands – Critical areas report additional requirements.
- 31 21.24.340 Wetlands – Mitigation.
- 32 21.24.350 Frequently flooded areas - Designation.
- 33 21.24.360 Frequently flooded areas – Development standards.
- 34 21.24.370 Frequently flooded areas – Permitted activities.
- 35 21.24.380 Frequently flooded areas – Critical areas report additional requirements.
- 36 21.24.400 Fish and wildlife habitat conservation areas – Designation.
- 37 21.24.410 Fish and wildlife habitat conservation areas – Development standards.
- 38 21.24.420 Fish and wildlife habitat conservation areas – Permitted activities.
- 39 21.24.430 Fish and wildlife habitat conservation area – Critical areas report additional
- 40 requirements.
- 41 21.24.440 Fish and wildlife habitat conservation areas – Mitigation.

42
43 21.24.010 Purpose.

44 (1) Introduction. The purpose of this chapter is to designate and classify ecologically critical
45 areas, to protect these areas and their functions and values, and to supplement the
46 development regulations contained within the Woodinville Municipal Code through best
47 available science and additional controls as required by the Growth Management Act.
48 Additionally, this chapter is intended to encourage development that meets implement the
49 goals and policies of the Washington State Environmental Policy Act, Chapter 43.21C RCW,
50 and the City of Woodinville Comprehensive Plan, which call for protection of the natural
51 environment and the public health and safety by. These goals include:

Commented [SC1]: This section was updated based on recommendations from the Gap Analysis. The purpose section is reoriented to provide a, the connection to the City's Comprehensive Plan, and GMA.

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- 1 (a) Goal E-1: To preserve and enhance aquatic and wildlife habitat.
- 2 (b) Goal E-2: To protect the public from natural hazards resulting from disturbance of the
- 3 environment.
- 4 (c) Goal E-3: To protect and improve water quality.
- 5 (d) Goal E-5: To promote the preservation of Woodinville's Northwest woodland
- 6 character.
- 7 ~~(1) Including the best available science requirements pursuant to the Washington State~~
- 8 ~~Growth Management Act and giving special consideration to anadromous fish when~~
- 9 ~~developing the critical areas regulations;~~
- 10 ~~(2) Establishing development standards to protect defined critical areas;~~
- 11 (2) Scope. Critical areas include critical aquifer recharge areas, geologically sensitive areas,
- 12 wetlands, frequent flood areas, and fish and wildlife habitat conservation areas. The City of
- 13 Woodinville recognizes that critical areas provide a variety of valuable and beneficial
- 14 biological and environmental functions that benefit the City and its residents, but that some
- 15 critical areas may pose a threat to public safety and property. The standards established in
- 16 this chapter are intended to protect critical areas while providing property owners with
- 17 reasonable use of their property. This chapter seeks to:
- 18 (3a) Protecting members of the public and public resources and facilities from injury, loss
- 19 of life, property damage or financial loss due to flooding, erosion, landslides, seismic
- 20 events, soil subsidence or steep slope failures;
- 21 (4b) Maintaining and protect healthy, functioning ecosystems through the protection of
- 22 unique, fragile, and valuable elements of the environment, including ground and
- 23 surface waters, wetlands, and fish and wildlife and their habitats, and to
- 24 conservati~~one~~ of the biodiversity of plant and animal species;
- 25 (5c) Directing activities not dependent on critical areas resources to less ecologically
- 26 sensitive areas and mitigating-mitigate unavoidable impacts to critical areas by
- 27 regulating alterations in and adjacent to critical areas;
- 28 (6d) Preventing cumulative adverse environmental impact to water quality, and
- 29 availability, net loss of wetlands, streams, lakes, fish and wildlife habitat, and the
- 30 overall net loss of wetlands, frequently flooded areas, and fish and wildlife habitat
- 31 conservation areas;
- 32 ~~(7) Protecting unique, fragile and valuable elements of the environment including, but not~~
- 33 ~~limited to, wildlife and its habitat;~~
- 34 ~~(8) Requiring mitigation of unavoidable impacts on environmentally sensitive areas by~~
- 35 ~~regulating alterations in or near critical areas;~~
- 36 ~~(9) Preventing cumulative adverse environmental impacts on water availability, water~~
- 37 ~~quality, wetlands and streams;~~
- 38 ~~(10) Measuring the quantity and quality of wetland and stream resources and preventing~~
- 39 ~~overall net loss of wetland and stream functions;~~
- 40 ~~(11) Protecting the public trust as to navigable waters and aquatic resources;~~
- 41 (12e) Meeting the requirements of the National Flood Insurance Program and
- 42 maintaining-maintain the City of Woodinville as an eligible community for Federal
- 43 federal flood insurance benefits;
- 44 (13f) Alerting members of the public including, but not limited to, appraisers, owners,
- 45 potential buyers, or lessees, to the development limitations of critical areas;
- 46 (14g) Provideing for public enjoyment of environmentally-protectedcritical areas by
- 47 encouraging when feasible and sensible, multiple use of critical area buffers; and
- 48 ~~(15) Providing City officials with sufficient information to protect critical areas.~~
- 49 (h) Serve as a basis for exercise of the City's substantive authority under the State
- 50 Environmental Policy Act (SEPA) and the City's SEPA rules.
- 51

Commented [SC2]: Under this Intent section, the reader is introduced to types of critical areas regulated in the City and the importance of regulating critical areas. Where possible, language was consolidated to reduce redundancy.

The following deleted items were moved as follows:
-(7) was consolidated with (b)
-(8) was consolidated with (d). The currently used language by state agencies broadly at preventing cumulative adverse impact, which may include mitigation under the umbrella in addition to other measures.
-(9) was consolidated with (d)
-(10) was consolidated with (d). Measuring quality/quantity is not necessarily a goal, but it is an implementation measure required in this CAO
-(11) was consolidated with (g). Staff did not believe it was necessary to include the language related to the public trust as to navigable waters as a separate item. Additionally, the SMP provides additional protections to navigable waters.

Commented [SC3]: See note above. These goals were consolidated with other items above.

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1 **21.24.020 Applicability.**

2 (1) Compliance with This Chapter. The provisions of this chapter shall apply to all land uses and
3 activities in the City of Woodinville city limits, and all persons within the City city limits shall
4 comply with the requirements of this chapter.

5 ~~(2) The City of Woodinville shall not approve any No permit or otherwise issue any authorization~~
6 ~~shall be approved or issued~~ to alter the condition of any land, water, or vegetation, or to
7 construct or alter any structure or improvement without first assuring compliance with the
8 requirements of this chapter.

9 ~~(3) Approval of a development proposal pursuant to the provisions of this chapter does not~~
10 ~~discharge the obligation of the applicant to comply with the provisions of this chapter.~~

11 (2) Alterations. Any human activity that results or is likely to result in an impact upon the existing
12 condition of a critical area is an alteration that is subject to specific limitations as specified by
13 this chapter. Alterations include, but are not limited to, grading; filling; dredging; draining;
14 channelizing; applying herbicides, pesticides or any hazardous substance; discharging
15 pollutants; grazing domestic animals; paving; constructing; cutting, pruning, topping,
16 trimming, relocating or removing vegetation; or any other human activity which results or is
17 likely to result in an impact to existing vegetation, hydrology, wildlife or wildlife habitat.
18 Alterations do not include walking, fishing, any other passive recreation, or other similar
19 activities.

20 (34) Conflict of provisions. When any another provision of any other chapter of the City of
21 Woodinville Municipal Code conflicts with this chapter or when the provisions of this chapter
22 are in conflict, that provision which provides more environmental protection to
23 environmentally critical areas shall apply, unless specifically provided otherwise in this
24 chapter, or unless such provision conflicts with Federal federal or State state laws or
25 regulations.

26 (45) Forest practices. The provisions of this chapter shall apply to all forest practices over which
27 the City has jurisdiction pursuant to Chapter 76.09 RCW and WAC Title 222.

28 **21.24.030 Appeals.**

29 ~~Any decision to approve, condition or deny a development proposal based on the requirements~~
30 ~~of this chapter may be appealed according to and as part of the appeal procedure for the permit~~
31 ~~or approval involved.~~

32 **21.24.040 Critical areas rules.**

33 ~~The directors of the applicable departments within the City of Woodinville are authorized to~~
34 ~~adopt such administrative rules and regulations as are necessary and appropriate to implement~~
35 ~~this chapter and to prepare and require the use of such forms as are necessary to its~~
36 ~~administration.~~

37 **21.24.050 Alteration.**

38 ~~Any human activity which results or is likely to result in an impact upon the existing condition of~~
39 ~~a critical area is an alteration which is subject to specific limitations as specified for each critical~~
40 ~~area. Alterations include, but are not limited to, grading, filling, dredging, draining, channelizing,~~
41 ~~applying herbicides or pesticides or any hazardous substance, discharging pollutants except~~
42 ~~storm water, grazing domestic animals, paving, constructing, applying gravel, modifying for~~
43 ~~surface water management purposes, cutting, pruning, topping, trimming, relocating or~~
44 ~~removing vegetation or any other human activity which results or is likely to result in an impact~~
45 ~~to existing vegetation, hydrology, wildlife or wildlife habitat. Alterations do not include walking,~~
46 ~~fishing or any other passive recreation or other similar activities.~~
47
48
49

Commented [SC4]: Where appropriate, staff has changed the titles. In this instance, city limits is more clear in terms of the jurisdictional boundaries. Readers often confuse City of Woodinville between the government, the land area, or as a whole

Commented [SC5]: This was consolidated with subsection 1 for ease of reading

Commented [SC6]: This separate section is unnecessary. A note for the appeals process was listed below. All of the appeals under Title 21 are found in Chapter 17.17

Commented [SC7]: This section is unnecessary. We do not have critical area administrative rules and regulations outside of this chapter.

Commented [SC8]: This was moved to section 21.24.020(2), as it ties in with the applicability section.

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1 **21.24.030 Critical area maps and inventories.**

2 (1) Critical Areas Maps. The approximate location and extent of critical areas are shown on the
3 City's adopted critical areas maps. The latest critical areas maps are available from the
4 Development Services Department. The maps do not provide a final critical area
5 determination. Adopted critical areas maps include, but are not limited to the following:

- 6 (a) Federal Emergency Management Administration flood insurance rate maps;
- 7 (b) US Geological Survey landslide hazard, seismic hazard, and volcano hazard maps;
- 8 (c) Department of Natural Resources seismic hazard maps for Western Washington;
- 9 (d) Department of Natural Resources slope stability map;
- 10 (e) National Wetlands Inventory;
- 11 (f) Washington Department of Fish and Wildlife Priority Habitat and Species maps;
- 12 (g) Other critical area maps adopted by the City of Woodinville, including the Critical
13 Aquifers Recharge Areas map and Geologically Sensitive Areas map.

14 (2) Maps showing critical areas are to be used for guidance purposes only and may be
15 continuously updated as new critical areas are identified. If there is a conflict among the
16 maps, inventory and site-specific features, the actual presence or absence of the features
17 defined in this chapter as critical areas shall govern.

18 **21.24.060-040 Complete exemptions.**

19 (1) The following activities are exempt from the provisions of this chapter and any
20 administrative rules promulgated hereunder, provided they are otherwise consistent with
21 other local, state, and federal law requirements:

22 (a1) Alterations in response to emergencies that threaten the Emergency actions
23 necessary to prevent an immediate threat to public health, safety and welfare or
24 which that pose an imminent risk of damage to public or private property as long as
25 any alteration. Alterations undertaken pursuant to this subsection is shall be reported
26 to the City immediately. The Development Services Director. The impacted critical
27 areas and its buffers shall confirm that an emergency exists and determine what, if
28 any, be fully restored in accordance with a critical areas report and mitigation shall
29 be required to protect the health, safety, welfare and environment and to repair any
30 resource damage; plan;

31 (b2) Agricultural activities in existence before March 31, 1993, as follows:

- 32 (i) Mowing of hay, grass, or grain crops;
- 33 (ii) Tilling, dicing, planting, seeding, harvesting and related activities for pasture,
34 food crops, grass seed, or sod if such activities do not take place on steep
35 slopes;
- 36 (iii) Normal and routine maintenance of existing irrigation and drainage ditches
37 not used by salmonids fish species and do not drain directly into salmon-
38 bearing waterbodies; and
- 39 (iv) Normal and routine maintenance of farm ponds, fish ponds, manure lagoons
40 and livestock watering ponds;

41 (c3) Public water, electric local collection and natural gas distribution, utility lines, mains,
42 equipment, appurtenances, including electric facilities with an associated voltage of
43 55,000 volts or less, not including substations; public sewer local collection; public
44 water local distribution; natural gas; cable communications; or telephone utility
45 facilities. Local collection and related activities undertaken pursuant to Public Works
46 Director approved best management practices and Policy U 1.12 of the
47 Comprehensive Plan distribution utilities may be allowed in critical areas or their
48 buffers, as follows:

- 49 (i) Normal and routine maintenance or repair of existing utility structures or
50 rights-of-way;

Commented [SC9]: Restoration is required regardless of the emergency. The strikethrough language implies that staff more discretion than in practice.

Commented [SC10]: From the Gap Analysis, page 4: Ag exemption for maintenance and repair of ditches and drainages NOT used by salmonids. Consider implication for those which 1) are used by fish other than salmonids and/or 2) ditches and drainages which drain directly to salmon bearing waterbodies.

Commented [SC11]: Section (3) was re-worded to reduce the unnecessary repetition and redundancy. Subsections (d) and (e) were deleted and the language was placed in (3)

Commented [SC12]: Right-of-way maintenance and repair should not be under the utility exception

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- (ii) Relocation of ~~electric facilities, local collection and distribution utility lines, equipment or appurtenances, not including substations, with an associated voltage of 55,000 volts or less, only~~ when required by a local governmental agency, which approves the new location of the facilities; ~~and~~
- (iii) Replacement, operation, repair, modification ~~or~~ installation, or construction in an improved public road right-of-way of ~~all electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 55,000 volts or less~~ local collection and distribution utility lines, when such facilities are located within an improved public road right-of-way or ~~Public Works Director~~ City authorized private roadway;

Commented [SC13]: Unnecessary. Utility line relocation never permitted without permission and approval of all applicable agencies, whether in a critical area or not

(d) Relocation of public sewer local collection, public water local distribution, natural gas, cable communication or telephone facilities, lines, pipes, mains, equipment or appurtenances, only when required by a local governmental agency which approves the new location of the facilities; and

(e) Replacement, operation, repair, modification, installation or construction of public sewer local collection, public water local distribution, natural gas, cable communication or telephone facilities, lines, pipes, mains, equipment or appurtenances when such facilities are located within an improved public right-of-way or Public Works Director authorized private roadway;

(24) Maintenance, operation, repair or replacement of publicly improved roadways ~~as long as or recreation areas, provided~~ any such alteration does not involve the expansion of roadways ~~structures~~ or related improvements into previously unimproved ~~areas~~ rights-of-way or portions of rights-of-way when such facilities are located within an improved public right-of-way or Public Works Director authorized private roadway;

Commented [SC14]: Consolidated and moved up to section (3), (a), (b) and (c)

Commented [SC15]: Should this include privately improved roadways as well?

(5) Maintenance, operation or repair of publicly improved recreation areas as long as any such alteration does not involve the expansion of improvements into previously unimproved recreation areas;

(6) All clearing and grading activities which are exempt from the requirement for a clearing and grading permit as specified in the WMC, unless these activities require other permits or authorizations as specified in WMC 21.24.020.

(35) Removal of non-native invasive species. Work shall be limited to hand removal of non-native invasive species, unless permits from affected regulatory agencies have been obtained for approved biological or chemical treatments.

Commented [SC16]: Language was consolidated with section (4)

(46) Passive recreation, educational and scientific research that do not degrade critical areas or buffers, such as fishing, hiking and bird watching, not including trail building or clearing.

21.24.050 Nonconforming development. 070 Partial exemptions.

(1) Alterations to legally nonconforming developments, including those approved under a reasonable use exception or variance, may be permitted provided that the provisions of this chapter are met. Alterations shall include expansion, repair, modification, or replacement, but shall not include work where the cost of construction equals or exceeds 50 percent of the assessed value of existing structures on the site. The following are exempt from the provisions of this chapter and any administrative rules promulgated hereunder, except for the notice on title provisions, WMC 21.24.170 through 21.24.180, and the flood hazard area provisions, WMC 21.24.220 through 21.24.260:

Commented [SC17]: Modified to take nonconforming structures and buildings into consideration. Alterations should not be exempt outright (includes partial exemptions), but should be an allowed activity if in compliance with the chapter.

(a) Structural modification of, addition to, repair or replacement of structures, except single detached residences, in existence before March 31, 1993, which do not meet the building setback or buffer requirements for wetlands, streams or geological hazard areas if the modification, addition, replacement or related activity does not increase the existing footprint of the structure lying within the above described building setback area, critical area or buffer. Modifications, additions, and/or

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1 replacement of structures shall use bioengineered techniques beneficial to fish and
2 wildlife and based upon the best available science, including but not limited to stream
3 bank stabilization, wetland enhancement, water quality improvement, and similar
4 methods to preserve and/or enhance habitat functions.

5 (b) Structural modification of, addition to, repair or replacement of single detached
6 residences in existence before March 31, 1993, or residences allowed by reasonable
7 use or variance process which do not meet the building setback or buffer
8 requirements for wetlands, streams or geological hazard areas if the modification,
9 addition, replacement or related activity

10 (a) Single-family detached residences may be altered provided all of the following are
11 met:

12 (i) Expansion does not increase the existing footprint of the residence lying within
13 the above-described buffer or building setback area by more than 1,000
14 square feet ~~over that existing before March 31, 1993, and~~

15 (ii) No portion of the modification, addition, or replacement is located closer to
16 the critical area or, ~~if the existing residence is in the sensitive area,~~ extends
17 farther into the critical area or its buffer. ~~Modifications, additions, and/or~~
18 ~~replacement of structures shall use bioengineered techniques beneficial to~~
19 ~~fish and wildlife and based upon the best available science, including but not~~
20 ~~limited to stream bank stabilization, wetland enhancement, water quality~~
21 ~~improvement, and similar methods to preserve and/or enhance habitat~~
22 ~~functions; and;~~

23 (iii) The proposal includes on-site mitigation to offset any impacts to critical areas
24 consistent with the provisions of this chapter; and

25 (iv) The proposal will not significantly affect fish and wildlife habitat, stream bank
26 stability, drainage capabilities, flood potential, and landslide hazards on
27 neighboring properties.

28 (b) All other structures, except single-family detached residences, may be altered
29 provided all of the following are met:

30 (i) Expansion does not increase the existing footprint of the structure lying within
31 the above-described building setback area, critical area or its buffer;

32 (ii) No portion of the modification, addition, or replacement is located closer or
33 extends farther to the critical area or its buffer;

34 (iii) The proposal includes on-site mitigation to offset any impacts to critical areas
35 consistent with the provisions of this chapter; and

36 (iv) The proposal will not significantly affect fish and wildlife habitat, stream bank
37 stability, drainage capabilities, flood potential, and steep slopes and landslide
38 hazards on neighboring properties.

39 (c) Maintenance or repair of structures ~~which that~~ do not meet the development
40 standards of this chapter for geological hazard ~~areas, if the maintenance or repair~~
41 ~~areas, provided there is no~~ does not increase to the footprint of the structure and
42 there is no increased risk to life or property as a result of the proposed maintenance
43 or repair.

44 (2) ~~The grazing of livestock is exempt from the provisions of this chapter and any administrative~~
45 ~~rules promulgated hereunder, except for the livestock restriction provisions, WMC 21.24.320~~
46 ~~and 21.24.360, and any animal density limitations established by law, if the grazing activity~~
47 ~~was in existence before March 31, 1993.~~

48 (3) ~~A permit or approval sought as part of a development proposal for which multiple permits are~~
49 ~~required is exempt from the provisions of this chapter and any administrative rules~~
50 ~~promulgated hereunder, except for the notice on title provisions, WMC 21.24.170 and~~
51 ~~21.24.180, if:~~

Commented [SC18]: Not applicable in the city

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- (a) ~~The City of Woodinville previously reviewed all critical areas on the site;~~
- (b) ~~There is no material change in the development proposal since the prior review;~~
- (c) ~~There is no new information available, which is important to any critical area review of the site or particular critical area;~~
- (d) ~~The permit or approval under which the prior review was conducted has not expired or, if no expiration date exists, no more than five years have lapsed since the issuance of that permit or approval; and~~
- (e) ~~The prior permit or approval, including any conditions, has been complied with.~~

21.24.080 Exceptions.

21.24.060 Public agency and utility critical areas exceptions.

(1) If the application of this chapter would prohibit a development proposal by a public agency or public utility, the agency or utility may apply for a critical area exception pursuant to this subsection:

~~(a) The public agency or utility shall apply to the Department and shall make available to the Department other related project documents such as permit applications to other agencies, special studies and environmental documents. The Development Services Director shall prepare a recommendation to the Hearing Examiner.~~

(ba) The critical area exception shall be reviewed as Type III project permit, pursuant to Chapters 17.07 through 17.17 WMC. The Hearing Examiner shall make a decision based on the following criteria:

- (i) There is no other practical alternative to the proposed development with less impact on the ~~sensitive critical~~ area; and
- (ii) ~~The proposal minimizes application of this chapter would unreasonably restrict the impact on critical areas ability to provide services to the public;~~
- (iii) ~~Any impacts permitted to the critical area are mitigated in accordance with WMC 21.24.120 to the greatest extent possible;~~
- (iv) ~~The proposed development protects and/or buffer functions and values consistent with best available science; and~~
- (v) ~~The proposed development is consistent with other applicable regulations and requirements.~~

(eb) This exception shall not allow the use of the following critical areas for regional retention/detention facilities except where ~~there is a clear showing the applicant clearly demonstrates~~ that the facility will protect public health and safety or repair damaged natural resources:

- (i) ~~Class 4 Type S~~ stream buffers;
- (ii) ~~Class 4 Category I or II~~ wetland buffers with plant associations of infrequent occurrence; or
- (iii) ~~Class 4 Category I or 2II~~ wetland buffers, which provide critical or outstanding habitat for herons, raptors or State or Federal designated endangered or threatened species unless clearly demonstrated by the applicant that there will be no impact on such habitat.

21.24.070 Reasonable use exceptions.

(12) If the application of this chapter would deny all reasonable use of the property, the applicant may apply for a reasonable use permit pursuant to this subsection:

~~(a) The applicant shall apply to the Department, and the Development Services Director shall prepare a recommendation to the Hearing Examiner;~~

(ba) The reasonable use permit shall be reviewed as Type III project permit, pursuant to Chapters 17.07 through 17.17 WMC. The Hearing Examiner shall make a decision based on the following criteria:

- (i) The application of this chapter would deny all reasonable use of the property;

Commented [SC19]: This should be removed – projects that are not exempt should not have individual permits that are exempt. Staff recommends that language should be adopted under 21.24.110(6) allowing an applicant to adopt a previous critical area study if the information is still valid.

The intent appears to be to reduce the number of reports generated and adopt one critical area report for a set of permits.

Commented [SC20]: This requirement is unnecessary. Relevant studies and information is required as part of the submittal and does not need to be reiterated here.

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- ~~(ii) There is no other reasonable use with less impact on the sensitive area;~~
- (iii) The proposed development does not pose an unreasonable threat to the public health, safety or welfare on or off the development proposal site ~~and is consistent with the general purposes of this chapter and the public interest;~~ and;
- ~~(iviii) Any alterations permitted to the sensitive critical area shall be the minimum necessary to allow for reasonable use of the property; and~~
- ~~(iv) Any impacts permitted to the critical area are mitigated in accordance with WMC 21.24.120 to the greatest extent possible;~~
- ~~(v) The proposed development protects critical areas and/or buffer functions and values consistent with best available science; and~~
- ~~(vi) The proposed development is consistent with other applicable regulations and requirements.~~

(be) Any authorized alteration of a sensitive critical area under this subsection shall be subject to conditions established by the Hearing Examiner ~~including, but not limited to, mitigation under an approved mitigation plan to safeguard public health, general welfare and safety.~~

21.24.085 Density 080 Subdivisions and density calculations for within critical areas.

~~(1) Intent. The intent of this section is The following regulations for density calculation for single-family residential subdivisions and short plats are designed to provide for the preservation of critical areas and critical area their buffers, flexibility in design, and consistent treatment of different types of development proposals. The regulations shall apply to all properties on which critical areas such as streams, wetlands, steep slopes, and floodways of streams and associated critical area buffers limit land area available for development.~~

~~(2) Subdivisions in Critical Areas. The subdivision and short subdivision of land located in landslide and erosion hazardous areas, frequently flooded areas, wetlands, streams, and fish and wildlife habitat conservation areas shall be subject to the following:~~

- ~~(a) Land that is located wholly within a critical area or its buffer may not be subdivided.~~
- ~~(b) Land that is located partially within a critical area or its buffer may be divided; provided, that the developable portion of each new lot and its access is located outside of the critical area or its buffer. Each resulting lot shall meet the minimum lot size, and have sufficient buildable area outside of, and will not affect the critical area or its buffer; and~~
- ~~(c) Access roads and utilities serving the proposed may be permitted within the critical area and associated buffers only if the City determines that no other feasible alternative exists and when consistent with this chapter.~~

~~(3) On-Site Density Credits. For single-family residential subdivisions and short subdivisions on sites with critical areas and/or buffers. This section lists the maximum on-site density credits that may be transferred on a particular site from the critical area to a developable site area. However, in In some cases, the maximum density credits may not be attainable due to other site constraints including, but not limited to, acreage constraints of the developable site area.~~

- ~~(4a) For sites where up to 50 percent of the site is constrained by critical areas, up to 100 percent of the density that could be achieved on the constrained area portion of the site can be transferred to the nonsensitive developable portion of the property.~~
- ~~(b) For sites that are over 50 percent constrained by critical areas, up to 50 percent of the density that could be achieved on the constrained area portion of the site can be transferred to the nonsensitive developable portion of the property; provided.~~

~~(54) Density Transfer. On-site density transfer is subject to the following:~~

Commented [SC21]: This language was originally located in the geologically hazardous areas, but applies to other critical areas as well.

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(a) ~~The density credit can only be transferred within the development proposal site. The on-site density transfer provided for in this section shall not be applied to allow density from a constrained site to be transferred to an unconstrained parcel, lot or site when combined with a constrained site by subdivision, binding site plan, lot line adjustment or other means of land assemblage or arrangement for development.~~

~~(2) This on-site transfer is subject to the following conditions:~~

~~(ab) No additional density is allowed over the base density of the underlying zone.~~

~~(bc) The minimum lot size and other dimensional requirements of the underlying zoning classification may be reduced to accommodate the transfers in densities per the following table:~~

Table 21.24.070(4)(c) – Reduced Dimensional Standards

Zone	Minimum Lot Size	Maximum Building Coverage	Maximum Impervious Surface	Lot Width at Street
R-1	31,000 sf	15%	20%	100 ft/ 75 ft on cul-de-sac
R-4	7,200 sf	35%	45%	60 ft
R-6	5,000 sf	50%	70%	50 ft
R-8	4,600 sf	55%	75%	30 ft

~~(ed) All other applicable dimensional requirements pursuant to WMC 21.12.030 shall be met.~~

~~(de) The area to which the density is transferred shall not be constrained by another critical area regulation.~~

~~(ef) No portion of the critical area shall be included as part of the minimum lot size.~~

~~(fg) The lot sizes shall not be averaged pursuant to WMC 21.12.180.~~

~~((gh) No panhandle lots are permitted.~~

~~(3) The density credit can only be transferred within the development proposal site.~~

~~(45) Except as allowed by WMC 21.32.095, Nonconforming lots, in no event shall a lot be less in size than specified by subsection ((24) of this section.~~

~~**21.24.090 Critical area maps and inventories.**~~

~~(1) Critical Areas Map. The distribution of many critical areas in the City of Woodinville are displayed on maps in the King County Critical Areas Map Folio and the City of Woodinville Critical Areas Map. Many of the wetlands are inventoried and rated and that information is published in the King County Wetlands Inventory Notebooks.~~

~~(2) Flood Hazard Maps. Many flood hazard areas are mapped by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for King County."~~

~~(3) King County Critical Recharge Areas Map. The King County Critical Recharge Areas, including any authorized updates to this map, is hereby adopted as the designation of critical aquifer recharge areas in the City of Woodinville.~~

~~If there is a conflict among the maps, inventory and site specific features, the actual presence or absence of the features defined in this title as critical areas shall govern.~~

Commented [SC22]: Moved and elaborated in WMC 21.24.030

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21.24.100 ~~090~~ Disclosure ~~by applicant~~ and notice on title.

- (1) ~~Disclosure.~~ The applicant shall disclose to the ~~Development Services Director~~ City the presence of critical areas on the ~~development-proposal-site~~ project area and any mapped or identifiable ~~sensitive~~ critical areas within 2400 feet of the applicant's property.
- (2) ~~Notice.~~ The owner of any property containing critical areas or buffers on which a development proposal is submitted, except a public right-of-way or the site of a permanent public facility, shall file for record with the King County Auditor a notice approved in form by the City. The notice shall state the presence of critical areas or buffers on the property, of the application of this chapter to the property, and that limitations on actions in or affecting such critical areas or buffers may exist. The notice shall run with the land and failure to provide such notice to any purchaser prior to transferring interest in the property shall be a violation of this chapter. ~~The required contents and form of the notice shall be set forth in administrative rules. If the development proposal site contains or is within a critical area, the applicant shall submit an affidavit, to the extent consistent with the applicant's constitutional rights which declares whether the applicant has knowledge of any illegal alteration to any or all sensitive areas on the development proposal site and whether the applicant previously has been found in violation of this chapter, pursuant to Chapter 21-50 WMC, Enforcement. If the applicant previously has been found in violation, the applicant shall declare whether such violation has been corrected to the satisfaction of the Development Services Director.~~
- (3) ~~Submittal of Proof.~~ The applicant shall submit proof to the City that the notice has been filed prior to approval of a development proposal for the property or, in the case of subdivisions, short subdivisions, and binding site plans, at or before recording.

Commented [SC23]: No rules exist.

21.24.140 ~~100~~ Critical area ~~review~~ determination.

- (1) ~~Determination.~~ The ~~Development Services Director~~ City shall perform a critical area ~~review~~ determination for any ~~City of Woodinville~~ development ~~proposal~~ permit application or other request for permission to proceed with an alteration on a site ~~which~~ that includes a critical area or is within an identified critical area buffer.
- (2) ~~As part of the critical area determination, the City review, the Development Services Director shall:~~
- (a) Determine whether any critical area exists on the property and confirm its nature and type;
 - (b) Determine whether a critical area ~~special study~~ report is required;
 - (c) Evaluate the critical area ~~special study~~ report;
 - (d) Determine whether the development proposal is consistent with this chapter;
 - (e) Determine whether any proposed alteration to the critical area is necessary; and
 - (f) Determine if the mitigation and monitoring plans and bonding measures proposed by the applicant are sufficient to protect the public health, safety and welfare, consistent with the goals, purposes, objectives and requirements of this chapter.
- (2) ~~Appeals.~~ The critical areas determination may be appealed pursuant to Title 17 WMC.

21.24.120 ~~110~~ Critical area ~~special study~~ areas report requirement.

- (1) ~~General.~~ An applicant ~~application~~ for a development proposal ~~which~~ that includes a critical area or its or is within an identified critical area buffer shall ~~submit~~ include a critical area ~~special study (report requirements are available at the Community Development Department)~~ report that uses the best available science to ~~adequately~~ evaluate the proposal and all probable impacts.
- (2) ~~Waiver.~~ The ~~Development Services Director~~ may waive the requirement for a ~~special study report~~ if the applicant ~~shows, to the Development Services Director's satisfaction, demonstrates~~ that:
- (a) There will be no alteration of the critical area or ~~its~~ buffer;

Commented [SC24]: Reworded to reduce confusion. This section was consolidated with the section below.

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- 1 (b) The development proposal will not have an impact on the critical area or its buffer in
2 a manner contrary to the goals, purposes, objectives and requirements of this
3 chapter; and
4 (c) The minimum standards required by this chapter are met.

5 (3) Report Format. The critical areas report shall be in the form of a written document. A critical
6 area report may be combined with any studies required by other laws and regulations. If
7 necessary to ensure compliance with this chapter, the Development Services Director may
8 require additional information from the applicant may be required, separate from the critical
9 areas report, special study.

10 (4) Area Limits. If the development proposal will affect only a part of the development proposal
11 site, the Director may limit the scope of the required special report to include only that part of
12 the site that may be affected by the development.

13 (5) Report Contents. A critical areas report shall evaluate the proposed project area and critical
14 areas within 200 feet of the project area or have the potential to be affected by this proposal.
15 A critical areas report shall include the following information:

16 21.24.130 Contents of critical area special study.

17 (1) The critical area special study shall be in the form of a written report and shall contain the
18 following, as applicable:

19 (a) Using the best available science, identification and characterization of all sensitive areas
20 on or encompassing the development proposal site;

21 (ba) Existing conditions of the critical area, including an assessment of habitat and
22 ecological functions and values;

23 (b) Using the best available science, aAssessment of the impacts of any alteration proposed
24 for a critical area or buffer, assessment of the impacts of any alterations on the
25 development proposal, other properties and the environment, and/or assessment of the
26 impacts to the development proposal resulting from development in the critical area or
27 buffer;

28 (c) Studies, which propose adequate mitigation, maintenance, monitoring and contingency
29 plans and bonding measures; (dc) A scale map of the project area. If only a portion of the
30 development site has been mapped, the unmapped portion shall be clearly identified and
31 labeled on the site plans. The site plans shall be attached to the notice on title required
32 by WMC 21.24.090; development proposal site; and

33 (ed) Project narrative describing the proposal; anticipated temporary and permanent impacts
34 to critical areas or its buffers; construction activities and sequencing; restoration,
35 enhancement, or mitigation measures; and other relevant information; and

36 (f) Additional report requirements for each type of critical area or its buffer affected by the
37 development proposal pursuant to WMC 21.24.230, WMC 21.24.260, WMC 21.24.270,
38 WMC 21.24.330, WMC 21.24.380, and WMC 21.24.430.

39 (6) ~~(f)~~ Site and construction plans showing the following:

40 (a) Site diagrams, cross-sectional drawings;

41 (b) Slope gradients, and existing and final grade elevations at two-foot intervals;

42 (c) Type and extent of all critical areas, and buffers on, adjacent to, or within 200 feet of,
43 or that are likely to impact the proposal;

44 (d) Location of springs, steeps, surface water runoff features, or other surface
45 expressions of groundwater on or within 200 feet of the project area;

46 (e) Proposed development, including the location of existing and proposed structures,
47 fill, storage of materials, drainage facilities, and clearing limits with dimensions
48 indicating distances to the critical area, if available; and

49 (f) Other drawings to demonstrate construction techniques and anticipated final
50 outcomes;
51

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- 1 (7) Mitigation. A description of proposed mitigation actions and mitigation site selection criteria.
2 Mitigation shall be design to achieve no net loss of ecological function consistent with WMC
3 21.24.120 and mitigation requirements for each type of affected critical area;
4 (8) Multiple Critical Areas Affected. Critical areas reports for two or more types of critical areas
5 must meet the report requirements for each type of affected critical area.
6 ~~(e) Detailed studies, as required by the Development Services Director;~~
7 ~~(2) A critical area special study may be combined with any studies required by other laws and~~
8 ~~regulations; and~~
9 ~~(3) If the development proposal will affect only a part of the development proposal site, the~~
10 ~~Development Services Director may limit the scope of the required special study to include~~
11 ~~only that part of the site, which may be affected by the development.~~
12 21.24.(9) A permit or approval sought as part of a development proposal for which multiple
13 permits are required may adopt a previously approved critical area report if:
14 (a) There is no material change in the development proposal since the prior review;
15 (b) There is no new information available that would change the evaluation of the critical
16 area review of the site or particular critical area;
17 (c) The permit or approval under which the prior review was conducted has not expired,
18 or if no expiration date exists, no more than five years have lapsed since the
19 issuance of that permit or approval; and
20 (d) The prior permit or approval, including any conditions, has been met.
21
22 21.24.140120 Mitigation requirements, maintenance, monitoring and contingency.
23 (1) General. As determined by the Development Services Director, mitigation Mitigation,
24 maintenance and monitoring measures shall be in place to protect critical areas and buffers
25 from alterations occurring on the development proposal site of a resulting from proposed
26 development.
27 (2) Mitigation Measures. Mitigation shall be in-kind and on-site where feasible, and shall be
28 designed to maintain and enhance ecological functions and values, and to prevent risk from
29 hazards posed by the critical area. Mitigation measures shall evaluate goals and objectives
30 of proposed mitigation relating to impact to functions and values. Review of best available
31 science supporting the proposed mitigation is required. Where monitoring reveals a
32 significant deviation from predicted impacts or a failure of mitigation or maintenance
33 measures, the applicant shall be responsible for appropriate corrective action which, when
34 approved, shall be subject to further monitoring.
35 (3) Mitigation Sequencing. When an alteration to a critical area is proposed, such alteration shall
36 be avoided, minimized, or compensated for, as outlined by WAC 197-11-768, in the
37 following order of preference:
38 (a) Avoiding the impact altogether by not taking a certain action or parts of actions;
39 (b) Minimizing impacts by limiting the degree or magnitude of the action and its
40 implementation;
41 (c) Rectifying the impact by repairing, rehabilitating, or restoring the affected
42 environment;
43 (d) Reducing or eliminating the impact over time by preservation and maintenance
44 operations during the life of the action;
45 (e) Compensating for the impact by replacing or providing substitute resources or
46 environments; and/or
47 (f) Monitoring the impacts and compensation projects and taking appropriate corrective
48 measures.
49

Commented [SC25]: Common practice to combine a critical area report with other studies. Not necessary to lay out

Commented [SC26]: This was moved up to Section (4)

Commented [SC27]: Maintenance, monitoring and contingency were moved to 21.24.130.

Mitigation requirements were lacking in the existing code.

Mitigation sequencing is a standard measure to evaluate alterations in a critical area. Applicants are required to evaluate the impacts of a proposal based on a preference order from no action to compensation.

Commented [SC28]: Moved to section 4

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1
2 21.24.130 Maintenance, monitoring, and contingency.

3 (1) Maintenance and Monitoring. A maintenance and monitoring program shall be included as
4 part of a mitigation plan. At minimum, the program shall include the following:

5 (a) Performance standards for mitigation or restoration sites, including:

6 (i) 100 percent survival of installed vegetation within the first two years of
7 planting;

8 (ii) At least 80 percent survival of installed vegetation after three years or more;
9 and

10 (iii) Less than 10 percent of the mitigation area covered in nonnative invasive
11 species after three years or more.

12 (b) Contingency plan identifying courses of action and corrective measures to be taken if
13 monitoring or evaluation indicates that the performance measures have not been
14 met;

15 (c) A schedule for site monitoring, which includes at minimum one monitoring or
16 inspection every 12 months;

17 (d) Monitoring period necessary to ensure that the performance standards have been
18 met, not to be less than five years; and

19 (e) Information on maintenance bonds or financial guarantees to ensure that the
20 mitigation plan is implemented.

21 21.24.150 Security, insure mitigation, maintenance and monitoring.

22 (2+) Performance Guarantee. A performance bond or other security equal to or greater than 150
23 percent of the actual cost of mitigation shall be posted in a form acceptable to the City prior
24 to issuance of construction permits. Actual costs shall include all labor and materials
25 associated with the mitigation activity. ~~When mitigation required pursuant to a development~~
26 ~~proposal is not completed prior to the Development Services Director finally approving the~~
27 ~~proposal, the Development Services Director may delay final approval until mitigation is~~
28 ~~completed or may require the applicant to post a performance bond or other security in a~~
29 ~~form and amount deemed acceptable by the Development Services Director. The security~~
30 ~~shall be sufficient to guarantee that all required mitigation measures will be completed in a~~
31 ~~timely manner in accordance with this chapter, no later than the time established by the~~
32 ~~Development Services Director in accordance with this chapter.~~

33 (32) Maintenance Guarantee. A maintenance/monitoring bond or other security equal to or
34 greater than 20 percent of the cost of mitigation shall be posted in a form acceptable to the
35 City prior to final inspection, occupancy, or release of the performance bond, whichever
36 comes first. ~~If the development proposal is subject to mitigation, maintenance or monitoring~~
37 ~~plans, the applicant shall post a maintenance/monitoring bond or other security in a form~~
38 ~~and amount deemed acceptable the Development Services Director. The security shall be~~
39 ~~sufficient to guarantee satisfactory workmanship on, materials in and performance of or~~
40 ~~related to structures and improvements allowed or required by this chapter for a period of up~~
41 ~~to five years. The duration of maintenance/monitoring obligations shall be established by the~~
42 ~~Development Services Director, based upon the nature of the proposed mitigation,~~
43 ~~maintenance or monitoring, and the likelihood and expense of correcting mitigation or~~
44 ~~maintenance failures.~~

45 (4) Corrective Measures. ~~Where monitoring reveals a significant deviation from predicted~~
46 ~~impacts or a failure of mitigation or maintenance measures, the applicant shall be~~
47 ~~responsible for appropriate corrective action which, when approved, shall be subject to~~
48 ~~further monitoring.~~

49 (53) Restoration. Performance and maintenance/monitoring bonds or other security shall also
50 be required for restoration of a critical area or buffer not performed as part of a mitigation or
51 maintenance plan, except that no security shall be required for minor stream restoration

Commented [SC29]: This section adds language in for standard maintenance and monitoring requirements, which are not present in the existing code.

Commented [SC30]: These percentages are typical for maintenance programs, but these percentages can be increased or decreased.

Commented [SC31]: Three to five years is typical. The City has been requiring five year periods.

Commented [SC32]: In practice, a performance bond is not pushed off until the applicant determines they cannot complete the mitigation in time or before other permits are approved. A performance bond is a required component of a critical areas report. Staff does not issue without a bond, regardless of where the mitigation is in the sequence.

Commented [SC33]: Moved from existing section 21.24.140(2)

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1 carried out pursuant to this chapter. The bond or other security shall be in a form and
2 amount deemed acceptable by the ~~Development Services~~ Director.

3 (46) Time Limit. Performance and maintenance/monitoring bonds or other security authorized
4 by this section shall remain in effect until the ~~Development Services Director~~City determines,
5 in writing, that the standards bonded for have been met.

6 (57) Obligation. Depletion, failure or collection of security funds shall not discharge the
7 obligation of an applicant or violator to complete required mitigation, maintenance,
8 monitoring or restoration.

9 ~~(6) Public development proposals shall be relieved from having to comply with the security
10 requirements of this section if public funds have previously been committed for mitigation,
11 maintenance, monitoring or restoration.~~

12
13 **21.24.140 Critical area markers and signs.**

14 (1) Survey Stakes. Permanent survey stakes delineating the boundary between ~~the~~ adjoining
15 property and ~~critical area tracts~~native growth protection area (NGPA) shall be set, using iron
16 or concrete markers as established by current survey standards.

17 (2) When Required, Signage and fencing shall be required for all wetlands and fish and wildlife
18 habitat conservation areas, unless otherwise specified in this chapter. The City shall
19 determine if fencing and permanent signage is necessary to protect other types of critical
20 areas. Signage and fencing shall be located along the outer boundary between of a critical
21 area buffer tract and contiguous land in order to protect the critical area.

22 (3) Permanent Signs. ~~Signs shall be identified with permanent signs, made of an enamel-coated
23 metal face and attached to a metal post or other material of equal durability. Signs must be
24 posted at an interval of 75 feet and must be maintained by the property owner in perpetuity.
25 The sign shall follow the City's adopted signage standard, be worded as follows or with
26 alternative language as approved by the City.~~

Commented [SC34]: This section was changed to include some more details on material type, spacing, etc. The wording is similar to the signage currently found around the City. Planning Commission may wish to adopt a standard detail for the signage for consistency.

27
28 Protected Critical Area
29 Do Not Disturb
30 Help protect and care for this area
31 Contact City of Woodinville 489-2754
32

33 (4) Fencing. Required fencing shall be constructed of permanent and durable materials. Fencing
34 shall be designed so as to not interfere with species migration and shall be constructed in a
35 manner that minimizes impacts to the critical areas and associated habitat.
36

37 **21.24.170 Notice on title.**

38 (1) ~~The owner of any property containing critical areas or buffers on which a development
39 proposal is submitted, except a public right-of-way or the site of a permanent public facility,
40 shall file a notice approved by the Development Services Director with the County's records
41 and elections division. The notice shall inform the public of the presence of critical areas or
42 buffers on the property, of the application of this chapter to the property and that limitations
43 on actions in or affecting such critical areas or buffers may exist. The notice shall run with the
44 land.~~

45 (2) ~~The applicant shall submit proof that the notice has been filed for public record before the
46 Development Services Director and/or Building Official shall approve any development
47 proposal for the property or, in the case of subdivisions, short subdivisions and binding site
48 plans, at or before recording.~~

Commented [SC35]: This section was moved up to 21.24.090 and consolidated with the disclosure section.

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21.24. ~~150~~**180** ~~Critical area tracts or easements~~ **Native growth protection areas** and designations on site plans.

(1) ~~Tracts. Critical area tracts~~ A native growth protection area (NGPA) in the form of a tract shall be used to delineate and protect those critical areas and buffers listed below ~~in development proposals for subdivisions, short subdivisions or binding site plans and for development proposals including new construction, subdivisions, short subdivisions and binding site plans.~~ NGPA tracts shall be recorded on all documents of title of record for all affected lots:

- (a) All geological hazard areas and buffers which are one acre or greater in size;
- (b) All fish and wildlife conservation areas;
- (c) All wetlands and buffers;
- ~~(d) All streams and buffers.~~

Commented [SC36]: The terminology in the existing code was inconsistent. "Critical area tracts," "critical area easements", "native growth protection easements," was changed to "native growth protection areas". NGPAs cover both tracts and easements

(2) ~~Tract Interest.~~ Any required ~~critical area~~ NGPA tract shall be held in an undivided interest by each owner of a building lot within the development ~~with this.~~ This ownership interest shall ~~passing~~ with the ownership of the lot or shall be held by an incorporated homeowner's association or other legal entity, which assures the ownership, maintenance, and protection of the tract.

Commented [SC37]: Streams now covered under fish and wildlife

(3) Site ~~Plans.~~ Site plans submitted as part of development proposals for building permits and clearing and grading permits shall include and delineate all flood hazard areas (if they have been mapped by FEMA, King County or the City of Woodinville or if a ~~special study critical areas report~~ is required), geological hazard areas, streams and wetlands, buffers and building setbacks and native growth protection ~~areas easements~~. If only a part of the development site has been mapped pursuant to WMC 21.24.~~030~~, the part of the site ~~which that~~ has not been mapped shall be clearly identified and labeled on the site plans. The site plans shall be attached to the notice on title required by WMC 21.24.~~090~~**170**.

~~(34) Easements. If a NGPA tract is not required in accordance with subsection (1), a NGPA in the form of an easement may be required over delineated critical areas to protect them in perpetuity.~~

~~(54) Recording. NGPAs shall be recorded on all documents of the title of record and shall be designated on the face of the plat or recorded drawing.~~

~~(6a) Native growth protection areas (NGPA) shall be marked with critical area signage and/or (wildlife friendly) fencing to protect wildlife corridors and to discourage human intrusion into the critical area. Fencing options will be left up to the discretion of the Director to further protect wildlife habitat pursuant to WMC 21.24.140.~~

~~(7b) Native growth protection areas may be enhanced as part of a mitigation or restoration project. The NGPENGA shall be designated as protected habitat for fish and wildlife and shall be left in its natural state (with the exception of mitigation to enhance habitat). Any downed trees shall remain in the NGPA to provide habitat for wildlife.~~

~~(4) Native growth protection easements may be required over delineated critical areas to protect them in perpetuity, as determined by the Development Services Director. Easements shall be recorded with the County Assessor's Office prior to issuance of a certificate of occupancy.~~

Commented [SC38]: Covered with sections (1) and (3) above.

21.24. ~~190~~**200** ~~Critical aquifer recharge areas – Designation and rating.~~

(1) ~~Definition. Critical aquifer recharge areas (CARAs) are those areas with a critical recharging effect on aquifers used for potable water as defined in WAC 365-190-030(2). Due to soil infiltration conditions of these CARAs, they contribute significantly to the replenishment of groundwater, and often have a high potential for contamination of groundwater resources.~~

~~(1) The map entitled King County Critical Recharge Areas, including any authorized updates to this map, is hereby adopted as the designation of critical aquifer recharge areas in the City of Woodinville. The designated critical aquifer recharge areas map may be updated from time to time as new information becomes available pursuant to WMC 21.24.080 and 21.24.090.~~

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1 ~~(2) Designation. Identification of CARAs shall be made in based on the City's adopted Critical~~
2 ~~Aquifer Recharge Areas map pursuant to WMC 21.24.030. Areas meeting the CARA~~
3 ~~designation are critical areas and subject to the provisions of this chapter. The critical~~
4 ~~aquifer recharge areas within the city limits have a medium to high susceptibility to~~
5 ~~groundwater contamination and are not located in a sole source aquifer or wellhead~~
6 ~~protection area.~~

Commented [SC39]: Golder completed a CARA map for the City. Language related to update of maps is listed in 21.24.080.

7
8 ~~(2) Critical aquifer recharge areas are categorized as follows:~~

9 ~~(a) Category I critical aquifer recharge areas include those areas designated on the~~
10 ~~critical aquifer recharge area map as highly susceptible to ground water~~
11 ~~contamination and that are located within a sole source aquifer or wellhead~~
12 ~~protection area.~~

Commented [SC40]: Golder's mapping does not include categories as the existing code does. Need to clarify.

13 ~~(b) Category II critical aquifer recharge areas include those mapped areas designated~~
14 ~~that:~~

15 ~~(i) Have a medium susceptibility to ground water contamination and are located~~
16 ~~in a sole source aquifer or wellhead protection area; or~~

17 ~~(ii) Are highly susceptible to ground water contamination and are not located in a~~
18 ~~sole source aquifer or wellhead protection area.~~

Commented [SC41]: Based on Golder's analysis, the city does not have Category I CARAs – staff suggest removing to reduce confusion with the levels for hydrogeologic assessment.

19 (3) An applicant can request that the ~~Development Services Director~~City declassify a specific
20 area included in the map adopted under ~~subsection (1)~~WMC 21.24.030 of this
21 ~~section~~chapter. The request must be supported by a critical areas report that includes a
22 hydro-geologic assessment. The request to declassify an area shall be reviewed by the
23 ~~Development Services~~ Director following the procedure in WMC 21.24.100140.

24
25 **21.24.200210 Critical aquifer recharge areas – Development regulations standards.**

26 (1) ~~The following new uses or activities are not allowed in Category I critical aquifer recharge~~
27 ~~areas:~~

28 ~~(a) Hazardous liquid transmission pipelines;~~

29 ~~(b) Sand and gravel, and hard rock mining on land that is not zoned for mining as of December~~
30 ~~1, 2004;~~

31 ~~(c) Mining of any type below the ground water table;~~

32 ~~(d) Processing, storage, and disposal of radioactive wastes;~~

33 ~~(e) Hydrocarbon extraction;~~

34 ~~(f) Commercial wood treatment facilities on permeable surfaces;~~

35 ~~(g) Golf courses;~~

36 ~~(h) Cemeteries;~~

37 ~~(i) Wrecking yards;~~

38 ~~(j) Landfills for hazardous waste, municipal solid waste, or special waste; and~~

39 ~~(k) On-site septic systems on lots smaller than one acre without a treatment system that results~~
40 ~~in effluent nitrate-nitrogen concentrations below 10 milligrams per liter.~~

Commented [SC42]: No land in the city is zoned for mining

41 ~~(2) The following new uses and activities are not allowed in a Category II critical aquifer~~
42 ~~recharge area:~~

43 ~~(a) Mining of any type below the water table;~~

44 ~~(b) Processing, storage, and disposal of radioactive substances;~~

45 ~~(c) Hydrocarbon extraction;~~

46 ~~(d) Commercial wood treatment facilities on permeable surfaces;~~

47 ~~(e) Wrecking yards;~~

48 ~~(f) Landfills for hazardous waste, municipal solid waste, or special waste; and~~

49 ~~(g) On-site septic systems on lots smaller than one acre without a treatment system that~~
50 ~~results in effluent nitrate-nitrogen concentrations below 10 milligrams per liter.~~

Commented [SC43]: Not included are:
-Hazardous liquid transmission pipelines
-Sand/gravel/hard rock mining
-Golf courses
-Cemeteries

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21.24.220 Critical aquifer recharge areas – Permitted activities.

(31) The following standards apply to any development proposal in a critical aquifer recharge area:

- (a) All storage tanks proposed to be located in a critical aquifer recharge area must comply with ~~the International Building Code and local building code requirements and must conform to~~ the International Fire Code requirements for secondary containment.
- (b) Commercial vehicle repair and servicing must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing must be stored in a manner that protects them from weather and provides containment should leaks occur.
- (c) No dry wells shall be allowed in critical aquifer recharge areas on sites used for vehicle repair and servicing. Dry wells existing on the site prior to facility development must be abandoned using techniques approved by the Washington State Department of Ecology prior to commencement of the proposed activity.
- (d) The activities listed below shall be conditioned in accordance with the applicable ~~s~~State and ~~f~~Federal regulations as necessary to protect critical aquifer recharge areas.

Commented [SC44]: The table below was revised with updated manuals or guides where possible.

Activity	Applicable State and Federal Regulations
Above-ground storage tanks	WAC 173-303-640
Animal feedlots	Chapter 173-216 WAC, Chapter 173-220 WAC
Automobile washers	Chapter 173-216 WAC, Best Management Practices for Vehicle and Equipment Washwater Discharges (WDOE WQ-R/Best Management Practices Manual (DOE 95-056))
Chemical treatment storage and disposal facilities	WAC 173-303-182
Hazardous waste generator (boat repair shops, biological research facility, dry cleaners, furniture stripping, motor vehicle service garages, photographic processing, printing and publishing shops, etc.)	Chapter 173-303 WAC
Injection wells	Federal 40 CFR Parts 144 and 146, Chapter 173-218 WAC
Junk yards and salvage yards	Chapter 173-304 WAC, Best Management Practices to Prevent Storm Water Pollution at Vehicles Recycler Facilities (WDOE 94-146) , Vehicle Recyclers: A Guide for

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Activity	Applicable State and Federal Regulations
	Implementing the Industrial Stormwater General National Pollutant Discharge Elimination System (NPDES) Permit Requirements (DOE 94-146)
Oil and gas drilling	WAC 332-12-450, Chapter 173-218 WAC
On-site sewage systems (large scale)	Chapter 173-240 WAC
On-site sewage systems (< 14,500 gallons/day)	Chapter 246-272 WAC, Local Health Ordinances
Pesticide storage and use	Chapter 15.54 RCW, Chapter 17.21 RCW
Sawmills	Chapter 173-303 WAC, Chapter 173-304 WAC, Best Management Practices to Prevent Storm Water Pollution at Log Yards (WDOE 95-53) , Industrial Stormwater General Permit Implementation Manual for Log Yards (DOE 04-10-031)
Solid waste handling and recycling facilities	Chapter 173-304 WAC
Surface mining	WAC 332-18-015
Underground storage tanks	Chapter 173-360 WAC
Wastewater application to land surface	Chapter 173-216 WAC, Chapter 173-200 WAC, WDOE Land Application Guidelines, Best Management Practices for Irrigated Agriculture

Commented [SC45]: No longer exists

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- 21.24.230 Critical aquifer recharge areas – Critical areas report additional requirements.**
(1) In addition to the general critical report requirements in WMC 21.24.110, critical areas reports for CARAs shall include the following:
- (a) Prepared by a Qualified Professional. A critical areas report for CARAs shall be prepared by a qualified professional who is a hydrogeologist, geologist, or engineer licensed in the State of Washington. The qualified professional shall have a minimum of five years of experience in the field and with experience in preparing hydrogeologic assessments.**
 - (b) Hydrogeologic Assessment. For all proposed activities to be located in a critical aquifer recharge area, a critical area report shall contain a Level 1 hydrogeological assessment. A Level 2 hydrogeologic assessment shall be required for any of the following proposed activities:**
 - (i) Activities that result in five percent or more impervious site area;**
 - (ii) Activities that divert, alter, or reduce the flow of surface or ground-waters, or reduce the recharging of the aquifer;**

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- (iii) The use of hazardous substances, other than household chemicals used according to the directions specified on the packaging for domestic applications;
- (iv) The use of injection wells, including on-site septic systems, except those domestic septic systems releasing less than 14,500 gallons of effluent per day and that are limited to a maximum density of one system per one acre; or
- (v) Any other activity determined by the City to likely to have an adverse impact on ground water quality or quantity, or on the recharge of the aquifer.

(c) Level 1 Hydrogeologic Assessment. A Level 1 hydrogeologic assessment shall include the following information on the site and development proposal:

- (i) Available information regarding geologic and hydrogeologic characteristics of the site including the surface location of all critical aquifer recharge areas located on site or immediately adjacent to the site, and permeability of the unsaturated zone;
- (ii) Ground-water depth, flow direction, and gradient based on available information;
- (iii) Currently available data on wells and springs within 1,300 feet of the project area;
- (iv) Location of other critical areas, including surface waters, within 1,300 feet of the project area;
- (v) Available historic water quality data for the area to be affected by the proposed activity; and
- (vi) Best management practices proposed to be utilized.

(d) Level 2 Hydrogeologic Assessment. A Level 2 hydrogeologic assessment shall include the information required for a Level 1 hydrogeologic assessment and the following information:

- (i) Historic water quality data for the area to be affected by the proposed activity compiled for at least the previous five year period;
- (ii) Ground-water monitoring plan provisions;
- (iii) Discussion of the effects of the proposed project on the ground water quality and quantity, including:
 - (A) Predictive evaluation of ground-water withdrawal effects on nearby wells and surface water features; and
 - (B) Predictive evaluation of contaminant transport based on potential releases to ground water; and
- (iv) A spill plan that identifies equipment and/or structures that could fail, resulting in an impact. Spill plans shall include provisions for regular inspection, repair, and replacement of structures and equipment that could fail.

Commented [SC46]: Language is from DOE's model ordinance. May want to consider simplifying requirements to avoid confusion between CARA Categories I and II and hydrogeologic assessment Level I and 2.

21.24.2590 Geologically hazardous sensitive areas – Designation.

(1) Definition. Geologically hazardous sensitive areas include are those areas susceptible to erosion, sliding, earthquake, or other geological events. Geologically sensitive areas pose a risk to health and safety of citizens when incompatible development is located in areas of significant hazard.

(2) Designation. Areas susceptible to one or more of the following types of hazards shall be designated as a geologically hazardous sensitive area and subject to the provisions of this chapter.:

- (a) Erosion hazard;(b) Landslide hazard;
- (c) Seismic hazard;
- (d) Other geological events including mass wasting debris flows, rock falls, and differential settlement.

Commented [SC47]: This section deviates from the standard organization due to the subset of different types of hazard areas. 21.24.250 designates the areas 21.24.260 includes development standards, permitted alterations, and report requirements in landslide/erosion hazard areas 21.24.270 includes development standards and report requirements for seismic hazard areas and other hazard areas

Commented [SC48]: 5/20/15: Geologically hazardous areas was changed to geologically sensitive areas

Commented [SC49]: Criteria language for geologically hazardous areas has been clarified, but not substantially changed. It has been moved from the section below for readability

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~~(2) Designation of Specific Hazard Areas.~~

- (a) Erosion Hazard ~~Areas. Erosion hazard areas are those~~ Those areas identified by the U.S. Department of Agriculture's Natural Resources Conservation Service or identified by a critical area ~~special study report~~ as having a severe to very severe erosion potential.
- (b) Landslide Hazard ~~Areas. Landslide hazard areas are~~ Those areas potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. Examples of these may include, but are not limited to the following:
- (i) Areas of historic failures, such as 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 15 percent; ~~and~~
 - (B) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and
 - (C) Springs or ground water seepage;
 - (iii) Areas that have shown movement during the Holocene epoch (from 10,000 years ago to the present) or that are underlain or covered by mass wasting debris of that epoch;
 - (iv) Areas potentially unstable because of rapid stream incision, stream bank erosion, and undercutting by wave action;
 - (v) Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding; and
 - (vi) Any area with a slope of 40 percent or steeper and with a vertical relief of 10 or more feet except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least 10 feet of vertical relief.
- (c) Seismic ~~Hazard Areas. Seismic h~~ Hazard areas are Those areas subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, surface rupture, or soil liquefaction.
- (i) Ground shaking is the primary cause of earthquake damage in Washington. The strength of ground shaking is primarily affected by the magnitude of an earthquake; the distance from the source of an earthquake; the type and thickness of geologic materials at the surface; and the subsurface geologic structure.
 - (ii) Settlement and soil liquefaction conditions occur in areas underlain by cohesionless, loose, or soft-saturated soils of low density, typically in association with a shallow ground water table.
- (d) Other Geologic Hazard. Other geological events including mass wasting debris flows, rock falls, and differential settlement.

~~21.24.260 Geologically sensitive areas – Erosion and landslide hazards. 21.24.300 Development standards – General requirements.~~

- (1) General Development Standards. Alterations of ~~geologically hazardous areas~~ erosion and landslide hazard areas or associated and their buffers may only occur for activities that:
- ~~(1a)~~ (4a) Will not increase the threat of the geological hazard, soil movement, or slope instability to adjacent properties beyond predevelopment conditions;
 - ~~(2b)~~ (2b) Will not adversely impact other critical areas or their buffers; and

Commented [SC50]: This section combines former 21.24.300 and 21.24.310. Planning staff has frequently heard from applicants that the separate "general requirements" and "performance standards" is confusing, particularly when and why which section applies (note, they always both apply). In this version, all types of geologically hazardous areas must meet the "general" criteria in subsection (1) and the "specific" criteria in subsection (2) for the applicable hazard(s).

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- 1 (3c) Are designed so that the hazard and risk of damage to the project is eliminated or
2 mitigated to a level where there is no reasonable chance of harm increased adverse
3 impact beyond predevelopment condition to the project or its associated land use;
4 and
5 (d) Are designed and constructed in conformance with the recommendations of the
6 critical areas report.

Commented [SC51]: 5/20/15 Update per Zipper Geo's recommendation

8 **21.24.310 Performance— Specific hazards.**

9
10 ~~(1) Erosion and Landslide Hazard Areas. Activities on sites containing erosion or landslide~~
11 ~~hazards shall meet the following requirements:~~

12 (2a) Buffer Required. A buffer shall be established from all edges of erosion or landslide hazard
13 areas. The size of the buffer shall be determined by the City to eliminate or minimize the risk
14 of property damage, death, or injury resulting from erosion and landslides caused in whole
15 or part by the development, based upon review of and concurrence with a critical area report
16 prepared by a qualified professional.

Commented [SC52]: Per Golder's recommendation: Risk cannot be completely eliminated, but can be reduced and minimized

- 17 (a) ~~Standard~~ Minimum Buffer. The ~~minimum standard~~ buffer shall be 50 feet.
18 (b) Buffer Reduction. The buffer may be reduced to a minimum of ~~10-20~~ feet when a
19 qualified professional demonstrates ~~to the satisfaction of the Development Services~~
20 ~~Director~~ that the reduction will provide adequately protection to the proposed
21 development, adjacent developments and uses, and the subject critical area.
22 (c) Increased Buffer. The buffer may be increased where the ~~Development Services~~
23 ~~Director~~ City determines a larger buffer is necessary to prevent risk of damage to
24 proposed and existing development.

25 (b) ~~Alterations. Alterations of an erosion or landslide hazard area and/or buffer may only occur~~
26 ~~for activities for which a geotechnical analysis is submitted and certifies that:~~

- 27 (i) ~~The development will not increase surface water discharge or sedimentation to~~
28 ~~adjacent properties beyond predevelopment conditions;~~
29 (ii) ~~The development will not decrease slope stability on adjacent properties; and~~
30 (iii) ~~Such alterations will not adversely impact other critical areas.~~

31 (34e) Design Standards. Development within an erosion or landslide hazard area and/or its
32 buffer shall be designed to meet the following basic requirements, unless it can be
33 demonstrated that an alternative design ~~that deviates from one or more of these standards~~
34 ~~provides greater long-term slope stability while meeting all other provisions of this title. The~~
35 ~~requirement for long-term slope stability shall exclude designs that require regular and~~
36 ~~periodic maintenance to maintain their level of function. The basic development design~~
37 ~~standards are:~~

Commented [SC53]: On several recent development projects, site conditions have revealed artificially created steep slopes from past grading activities. In some of these instances, the certain engineering techniques or regrading could reduce landslide or erosion potential compared to existing conditions.

Commented [SC54]: Per Golder: prescriptive and unnecessary limiting

Planning staff agrees – will need to rework this section.

Commented [SC55]: Golder stated that many common recommended or accepted techniques do require periodic maintenance. The inclusion of this language limits commonly accepted practices. Staff recommends removal.

- 38 (a) The proposed development shall not decrease the factor of safety for landslide
39 occurrences below the limits of 1.5 for static conditions and 1.2 for dynamic
40 conditions. ~~Analysis of dynamic conditions shall be based on a minimum horizontal~~
41 ~~acceleration as established by the current version of the International Building Code;~~
42 (b) Structures and improvements shall be clustered to avoid geologically sensitive
43 ~~hazardous~~ areas and other critical areas to the greatest extent possible;
44 (c) Structures and improvements shall minimize alterations to the natural contour of the
45 slope, and foundations shall be tiered where possible to conform to existing
46 topography;
47 (d) Structures and improvements shall be located to preserve the most critical portion
48 of the site and its natural landforms and vegetation;
49 (e) The proposed development shall not result in greater risk or a need for increased
50 buffers on neighboring properties;

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- 1 (fv) The use of retaining walls that allow the maintenance of existing natural slope area
2 is preferred over graded artificial slopes; and
3 (gvi) Development shall be designed to minimize impervious lot coverage.
- 4 (43) Alterations Criteria. Alterations shall be subject to the following requirements:
5 (a) Alterations of an erosion or landslide hazard area and its/er buffer may only occur for
6 activities for which a geotechnical analysis is submitted and certifies that:
7 (i) The development will not increase surface water discharge or sedimentation to
8 adjacent properties beyond predevelopment conditions;
9 (ii) The development will not decrease slope stability on adjacent properties;
10 (iii) Such alterations will not adversely impact other critical areas; and
11 (iv) Slopes that are determined to be artificially created or man-made slopes
12 through past grading or development activities may be modified under the
13 recommendation of an approved geotechnical report that demonstrates that
14 alteration will stabilize the slope and minimize erosion and landslide risk
15 beyond predevelopment conditions.
- 16 (db) Vegetation ~~Shall Be Retained~~ Preservation. Unless otherwise provided or as part of
17 an approved alteration, removal of vegetation from an erosion or landslide hazard
18 area or related buffer shall be prohibited.
- 19 (ce) Seasonal Restriction. Clearing shall be allowed only from May 1st to October 1st of
20 each year; provided, that the ~~Development Services Director~~ City may extend or
21 shorten the dry season on a case-by-case basis depending on actual weather
22 conditions, ~~except that timber~~ Timber harvest, not including brush clearing or stump
23 removal, may be allowed ~~outside of seasonal restrictions~~ pursuant to an approved
24 forest practice permit issued by ~~the City or the~~ Washington Department of Natural
25 Resources.
- 26 (df) Utility Lines and Pipes. Utility lines and pipes shall be permitted in erosion and
27 landslide hazard areas only when the applicant demonstrates that no other practical
28 alternative is available. The line or pipe shall be located above ground and properly
29 anchored, and/or designed so that it will continue to function in the event of an
30 underlying slide. Storm-water conveyance shall be allowed only through a high-
31 density polyethylene pipe with fuse-welded joints, or similar product approved by the
32 ~~Public Works Director~~ City that is technically equal or superior.
- 33 (eg) Point Discharges. Point discharges from surface water facilities and roof drains onto
34 or upstream from an erosion or landslide hazard area shall be prohibited except as
35 follows:
36 (i) Conveyed via continuous storm pipe downslope to a point where there are no
37 erosion hazards areas downstream from the discharge;
38 (ii) Discharged at flow durations matching predeveloped conditions, with
39 adequate energy dissipation, into existing channels that previously conveyed
40 storm water runoff in the predeveloped state; or
41 (iii) Dispersed discharge upslope of the steep slope onto a low-gradient
42 undisturbed buffer demonstrated to be adequate to infiltrate all surface and
43 storm water runoff, and where it can be demonstrated that such discharge will
44 not increase the saturation of the slope.
- 45 (fh) Subdivisions. The division of land in erosion and landslide hazard areas and
46 associated buffers ~~shall be subject to WMC 21.24.080~~ is subject to the following:
47 (i) ~~Land that is located wholly within an erosion or landslide hazard area or its~~
48 ~~buffer may not be subdivided. Land that is located partially within an erosion~~
49 ~~or landslide hazard area or its buffer may be divided; provided, that each~~
50 ~~resulting lot has sufficient buildable area outside of, and will not affect, the~~
51 ~~erosion or landslide hazard or its buffer.~~

Commented [SC56]: On several recent development projects, site conditions have revealed artificially created steep slopes from past grading activities. In some of these instances, the certain engineering techniques or regrading could reduce landslide or erosion potential compared to existing conditions.

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1 ~~(ii) Access roads and utilities may be permitted within the erosion or landslide hazard~~
2 ~~area and associated buffers if the Development Services Director determines that no~~
3 ~~other feasible alternative exists.~~

4 ~~(g) Prohibited Development Septic Systems.~~ On-site sewage disposal systems, including
5 drain fields, shall be prohibited within erosion and landslide hazard areas and ~~related~~
6 ~~their buffers.~~

Commented [SC57]: This language was moved to 21.24.080 for subdivisions in critical areas, as this language is applicable to more than just geo hazards

7 (5) Additional Report Requirements. In addition to the general critical report requirements of
8 WMC 21.24.110, critical areas reports for erosion and landslide hazard areas shall include
9 the following information:

10 (a) Prepared by a Qualified Professional. The critical areas report shall be prepared by a
11 qualified professional who is an engineer or engineering geologist licensed in the
12 State of Washington. The qualified professional shall have a minimum of five years
13 of experience in the field and experience in preparing reports for geologic,
14 hydrologic, and groundwater flow systems.

15 (b) Hazards Analysis. The hazards analysis shall include the following information on the
16 site and development proposal:

17 (i) A description of the extent and type of vegetative cover;

18 (ii) A description of subsurface conditions based on data from site-specific
19 explorations;

20 (iii) Descriptions of surface and ground water conditions, public and private
21 sewage disposal systems, fills and excavations, and all structural
22 improvements;

23 (iv) An analysis or estimate of slope stability and the effect construction and
24 placement of structures will have on the slope over the estimated life of the
25 structure;

26 (v) An estimate of the bluff retreat rate, taking into account potential catastrophic
27 events such as seismic activity or a one hundred-year storm event;

28 (vi) Consideration of the run-out hazard of landslide debris and/or the impacts of
29 landslide run-out on down slope properties;

30 (vii) A study of slope stability including an analysis of proposed cuts, fills, and
31 other site grading;

32 (viii) Recommendations for building siting limitations;

33 (ix) An analysis of proposed surface and subsurface drainage, and the
34 vulnerability of the site to erosion;

35 (x) A detailed overview of the field investigations, published data, and references;
36 data and conclusions from past assessments of the site; and site specific
37 measurements, test, investigations, or studies that support the identification
38 of geologically sensitive areas;

39 (xi) A review of the site history regarding landslides, erosion, and prior grading.
40 A description of the vulnerability of the site to seismic and other geologic
41 events; and

42 (xii) Documentation of data resulting from tests or analysis.

Commented [SC58]: 5/20/15: Added to include test data

43 (c) Geotechnical Engineering Report. The technical information for a project within a
44 landslide hazard area shall include a geotechnical engineering report prepared by a
45 licensed engineer that presents engineering recommendations for the following:

46 (i) Parameters for design of site improvements including appropriate foundations
47 and retaining structures. These should include allowable load and resistance
48 capacities for bearing and lateral loads, installation considerations, and
49 estimates of settlement performance;

50 (ii) Recommendations for drainage and subdrainage improvements;

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- (iii) Earthwork recommendations including clearing and site preparation criteria, fill placement and compaction criteria, temporary and permanent slope inclinations and protection, and temporary excavation support, if necessary; and
- (iv) Mitigation of adverse site conditions including slope stabilization measures and seismically unstable soils, if appropriate.
- (d) Analysis of Proposal. The report shall contain a hazards analysis including a detailed description of the project, its relationship to the geologic hazard(s), and its potential impact upon the hazard area, the subject property, and affected adjacent properties.
- (e) Erosion and Sediment Control Plan. For any development proposal on a site containing an erosion hazard area, an erosion and sediment control plan shall be required. The erosion and sediment control plan shall be prepared in compliance with requirements set forth in the adopted King County Stormwater Design Manual.
- (f) Drainage Plan. The technical information shall include a drainage plan for the collection, transport, treatment, discharge, and/or recycle of water prepared in accordance with the adopted King County Stormwater Design Manual. The drainage plan should consider on-site septic system disposal volumes where the additional volume will affect the erosion or landslide hazard area.
- (g) Monitoring Surface Waters. If the City determines that there is a significant risk of damage to downstream receiving waters due to potential erosion from the site, based on the size of the project, the proximity to the receiving waters, or the sensitivity of the receiving waters, the technical information shall include a plan to monitor the surface water discharge from the site. The monitoring plan shall include a recommended schedule for submitting monitoring reports to the City.
- (h) Minimum Buffer and Building Setback. The report shall make a recommendation for the minimum no-disturbance buffer and minimum building setback from any geologic hazard based upon the geotechnical analysis.
- (i) Mitigation Assessment. When hazard mitigation is required, the mitigation plan shall specifically address how the activity maintains or reduces the predevelopment level of risk to the site and adjacent properties on a long-term basis (equal to or exceeding the projected lifespan of the activity or occupation). Mitigation may be required to avoid any increase in risk above the pre-existing conditions following abandonment of the activity.

21.24.270 Geologically sensitive areas – Seismic hazard areas and other hazard areas.

- ~~(2) Seismic Hazard Areas. Activities proposed to be located in seismic hazard areas shall meet the standards of WMC 21.24.300, Development standards—General requirements. Development Standards. Alterations of seismic hazard areas or other hazard areas and their buffers may only occur for activities that:~~
 - ~~(a) Will not increase the threat of the geological hazard, soil movement, or slope instability to adjacent properties beyond predevelopment conditions;~~
 - ~~(b) Will not adversely impact other critical areas or their buffers;~~
 - ~~(c) Are designed so that the hazard and risk of damage to the project is eliminated or mitigated to a level where there is no increased adverse impact beyond predevelopment condition to the project or its associated land use; and~~
 - ~~(d) Are designed and constructed in conformance with the recommendations of the critical areas report.~~

- ~~(3) Other Hazard Areas. Activities on sites containing or adjacent to other geologically hazardous areas shall meet the standards of WMC 21.24.300, Development standards—General requirements.~~

Commented [SC59]: The Model Ordinance limits development in seismic hazards to certain square footages. PC may want to consider this. The square footages in the model ordinance are listed as follows:
1. Construction of new buildings with less than 2,500 square feet of floor area or roof area, whichever is greater, and which are not residential structures or used as places of employment or public assembly;
2. Additions to existing single-story residences that are two hundred fifty (250) square feet or less; and
3. Installation of fences.

Commented [SC60]: 5/20/15: Updated per Zipper Geo's recommendation

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1 (2) Additional Report Requirements. In addition to the general critical report requirements of
2 WMC 21.24.110, critical areas reports for seismic and other hazard areas shall include the
3 following information:

4 (a) Prepared by a Qualified Professional. The critical areas report shall be prepared by a
5 qualified professional who is an engineer or engineering geologist licensed in the
6 State of Washington. The qualified professional shall have a minimum of five years
7 of experience in the field and experience in preparing reports for geologic,
8 hydrologic, and groundwater flow systems.

9 (b) Hazards Analysis. The hazards analysis shall include a complete discussion of the
10 potential impacts of seismic activity on the site (for example, forces generated and
11 fault displacement).

12 (c) Geological Assessment. The report shall include an assessment of the geologic
13 characteristics of the soils, sediments, and/or rock of the project area and potentially
14 affected adjacent properties. Soils analysis shall be accomplished in accordance with
15 accepted classification systems in use in the region. The assessment shall include:

16 (i) A description of the surface and subsurface geology, hydrology, soils, and
17 vegetation found in the project area and in all hazard areas addressed in the
18 report;

19 (ii) A detailed overview of the field investigations, published data, and references;
20 data and conclusions from past assessments of the site; and site specific
21 measurements, test, investigations, or studies that support the identification
22 of geologically sensitive areas; and

23 (iii) A review of the site history regarding landslides, erosion, and prior grading. A
24 description of the vulnerability of the site to seismic and other geologic
25 events.

26 (d) Geotechnical Engineering Report. A geotechnical engineering report shall evaluate
27 the physical properties of the subsurface soils, particularly the thickness of
28 unconsolidated deposits and their liquefaction potential. If it is determined that the
29 site is subject to liquefaction, mitigation measures shall be recommended and
30 implemented.

31 (e) Analysis of Proposal. The report shall contain a hazards analysis including a detailed
32 description of the project, its relationship to the geologic hazard(s), and its potential
33 impact upon the hazard area, the subject property, and affected adjacent properties.

34 (f) Minimum Buffer and Building Setback. The report shall make a recommendation for
35 the minimum no-disturbance buffer and minimum building setback from any geologic
36 hazard based upon the geotechnical analysis.

37 (g) Mitigation Assessment. When hazard mitigation is required, the mitigation plan shall
38 specifically address how the activity maintains or reduces the predevelopment level
39 of risk to the site and adjacent properties on a long-term basis (equal to or exceeding
40 the projected lifespan of the activity or occupation). Mitigation may be required to
41 avoid any increase in risk above the pre-existing conditions following abandonment
42 of the activity.

43
44 **21.24.320-300 Wetlands – Designation and rating.**

45 (1) Definition. Wetlands are those areas designated in accordance with the Washington State
46 Wetland Identification and Delineation Manual (1997) that are inundated or saturated by
47 surface or ground water at a frequency and duration to support, and that under normal
48 circumstances do support, a prevalence of vegetation adapted for life in saturated soil
49 conditions. ~~The goal of the City of Woodinville is to maintain a standard of no-net-loss in the~~
50 ~~functions and values of wetlands.~~

Commented [SC61]: Identified in 21.24.010

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- 1 (2) Designation. Identification of wetlands and delineation of their boundaries shall be in
 2 accordance with the current approved federal wetland delineation manual and applicable
 3 regional supplements as set forth in WAC 173-22-035. Areas meeting the wetland
 4 designation criteria are critical areas and subject to the provisions of this chapter.
 5 (3) Wetland Rating and Categories. Wetlands shall be rated similarly according to the current
 6 approved version of the Department of Ecology Wetland Rating System found in the
 7 Washington State Wetland Rating System document for Western Washington, Ecology
 8 Publication No. 93-74. Definitions and the methodology for determining criteria as provided
 9 in this document are hereby adopted by reference.
 10 (2) Wetland Rating Categories. (a) Wetlands shall be categorized based on the table below. If
 11 the wetland qualifies under more than one category, the greater wetland rating shall
 12 apply, designated as Class 1, Class 2, and Class 3 according to the criteria in this section:
 13 (a) Class 1 wetlands are those wetlands that meet any of the following criteria:
 14 (i) Documented habitat for Federal or State listed endangered or threatened fish;
 15 animal, or plant species; or
 16 (ii) Wetlands documented as high quality habitats in the natural Heritage
 17 Information System; or
 18 (iii) Wetlands of exceptional local significance or irreplaceable ecological
 19 functions, including spagnum bogs and fens or natural forest swamps; or
 20 (iv) Wetlands proximal to and influenced by the main stem of the Sammamish
 21 River or Little Bear Creek.
 22 (b) Class 2 wetlands are those wetlands not rated as Class 1 wetlands and meet any of
 23 the following criteria:
 24 (i) Wetlands that have significant functions that may not be adequately replicated
 25 through creation or restoration; or
 26 (ii) Wetlands of any size associated with Type 2 or 3 streams; or
 27 (iii) Wetlands greater than one acre in size; or
 28 (iv) Wetlands equal to or less than one acre having three or more classes of
 29 wetland vegetation as defined in Classification of Wetlands and Deepwater
 30 Habitats of the United States (Cowardin, et al. 1979); or
 31 (v) Wetlands equal to or less than one acre having a forested wetland class or open
 32 water habitat.
 33 (c) Class 3 wetlands are those wetlands not rated as Class 1 or 2 wetlands.
 34
 35
 36

Table 21.24.320(3)(a) – Wetland Categories

<u>Category</u>	<u>Designation Descriptions</u>
<u>Category I</u>	<u>Wetlands that meet one of the following criteria:</u> <u>- High level of functions (score of 23 or more);</u> <u>- Represent a unique or rare high-functioning wetland types;</u> <u>- More sensitive to disturbance than most wetlands; or</u> <u>- Relatively undisturbed and contain ecological attributes that are impossible to replace in a human lifetime.</u>
<u>Category II</u>	<u>- High level of some functions (score of 20-22).</u> <u>- Difficult, though not impossible, to replace.</u>
<u>Category III</u>	<u>- Moderate level of functions (score of 16-19).</u> <u>- Can often be adequately replaced with a well-planned mitigation project.</u>

Commented [SC62]: This table follows the state's rating system in WAC 173-22-035. The scoring associated with each category of wetland comes from the DOE Wetland Rating System. In this system, a wetland biologist will evaluate a wetland through an inventory of wetland characteristics in a [worksheet](#) provided by DOE.

Wetlands are rated based on Function as scored in the worksheet. A higher score indicates that a wetland is less disturbed, unique, provides important or irreplaceable ecological attributes, and so forth. Function and value is defined as "The services provided by critical areas to society, including, but not limited to, improving and maintaining water quality, providing fish and wildlife habitat, supporting terrestrial and aquatic food chains, reducing flooding and erosive flows, wave attenuation, historical or archaeological importance, educational opportunities, and recreation."

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	- Experienced some disturbance.
	- Often less diverse and more isolated from other natural resources than Category II wetlands.
Category IV	- Lowest level of functions (score of 15 or less).
	- Can often be adequately replaced with a well-planned mitigation project.
	- Often characterized by a high level of disturbance.

(b) Date of Wetland Rating. Wetland rating categories shall be applied as the wetland exists on the date of adoption of the rating system, as the wetland naturally changes thereafter, or as the wetland changes in accordance with permitted activities. Wetland rating categories shall not change due to illegal modification.

(c) Delineation. The wetland's boundaries shall be delineated through a survey and field investigation by a qualified professional applying the most current federal wetland delineation manual and applicable regional supplement. Wetland delineations are valid for five years; after such date, the City shall determine whether a revision or additional assessment is necessary.

21.24.310330 Wetlands – Development standards.

A development proposal on a site containing a wetland shall meet the following requirements:

(1) The following standard minimum buffers shall be established from the wetland edge:

- (a) Class 1 wetlands shall have a 150-foot buffer with a 50-foot reduction with enhancement as defined in WMC 21.06.208.
- (b) Class 2 wetlands shall have an 100-foot buffer with a 50-foot reduction with enhancement.
- (c) Class 3 wetlands shall have a 50-foot buffer with a 25-foot buffer reduction with enhancement.

(d) The standard buffer width will be established unless the existing wetland buffer is significantly degraded. If the existing wetland buffer is significantly degraded, the applicant may use a reduced buffer as long as enhancement measures are implemented to provide a net improvement in overall wetland and buffer function and value as determined by a qualified biologist. Enhancement measures shall be conducted in accordance with a plan approved by the Development Services Director.

(e) Any wetland restored, relocated, replaced or enhanced because of a wetland alteration shall have the minimum buffer required for the highest wetland class involved.

(1) Standard Wetland Buffers. Activities and uses shall be prohibited within wetlands and their buffers except as provided for in this chapter. The width of the wetland buffers shall be determined according to the wetland category and habitat point scoring shown in Table 21.24.310(1).

Table 21.24.310(1) – Wetland Buffer Widths

Wetland Category	Buffer width based on habitat points			
	3-4 habitat points	5 habitat points	6-7 habitat points	8-9 habitat points
Category I	75 feet	105 feet	165 feet	225 feet
Category II	75 feet	105 feet	165 feet	225 feet
Category III	60 feet	105 feet	165 feet	225 feet
Category IV	40 feet			

Commented [SC63]: These new buffer widths are based on DOE's Wetlands and CAO Update Guidance for Small Cities. The City must be consistent with this guidance document or with DOE Wetlands in Washington State Vol. 2 document, both of which are based of best available science.

Habitat points are also from the Wetland Rating System worksheet. Habitat, along with Hydrologic and Improving Water Quality are the three functions that comprise Wetland Functions (used to determine wetland category above).

It is difficult to compare how the City's wetlands compare between the existing system and the new rating system. The existing categories did not follow new or previously recommended rating systems, which means that the categories have changed significantly.

(2) Measurement. The outer edge of the wetland buffer shall be delineated through a survey and field investigation by a qualified professional.

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- 1 (f) ~~Wetland buffers shall be measured from the wetland edge as delineated and marked~~
2 ~~in the field using the 1997 Washington State Wetland Identification and Delineation~~
3 ~~Manual (Ecology).~~
- 4 (g) ~~The Development Services Director shall require increased buffer widths in accordance with~~
5 ~~a(3) Increased Buffers. An increased buffer width shall be required in accordance with the~~
6 ~~recommendations of a qualified biologist/professional and the best available science on a~~
7 ~~case-by-case basis when a larger buffer is necessary to protect wetland functions and~~
8 ~~values based on site-specific characteristics. This determination shall be based on one or~~
9 ~~more of the following criteria/critical areas:~~
- 10 (i) ~~A(a) Geologically Sensitive Areas. If the buffer or abutting uplands include a~~
11 ~~geologically sensitive area, the buffer width shall be the greater of either the required~~
12 ~~wetland buffer or 25 feet beyond the top of the geologically sensitive area.~~
- 13 (b) ~~Other Critical Areas. If the wetland and its buffer are located adjacent to other critical~~
14 ~~areas, a larger buffer is needed/may be required to protect other critical areas; in~~
15 ~~accordance to the recommendations of a qualified professional and best available~~
16 ~~science.~~
- 17 (ii) ~~The buffer or adjacent uplands has a slope greater than 30 percent or is~~
18 ~~susceptible to erosion and standard erosion control measures will not prevent~~
19 ~~adverse impacts to the wetland.~~
- 20 (c) ~~Species Habitat. The wetland contains documented habitat for endangered,~~
21 ~~threatened, priority species or species of local importance. The buffer shall be~~
22 ~~established based on a habitat assessment pursuant to WMC 21.24.400 through~~
23 ~~WMC 21.24.440.~~
- 24 (4) ~~Roads or Structures in Buffers. Where a legally established roadway transects a wetland~~
25 ~~buffer, a modification to the minimum required buffer width may be granted to the edge of~~
26 ~~the roadway, provided that the proposed development is on the other side of the roadway~~
27 ~~and does not increase the degree of nonconformity.~~
- 28 (25) ~~Buffer width averaging/Averaging. The minimum buffer width may be allowed by the~~
29 ~~Development Services Director/averaged in accordance with an approved critical area report~~
30 ~~and using the best available science, on a case-by-case basis. Averaging of buffer widths~~
31 ~~may only be allowed where a qualified professional biologist demonstrates compliance with~~
32 ~~all of the following provisions/criteria are met:~~
- 33 (a) ~~It will provide Additional protection to the wetlands and result in a net improvement~~
34 ~~of wetland will be provided through implementation of a buffer enhancement plan;~~
35 ~~It will not reduce wetland/habitat, functions or/and values;~~
- 36 (b) ~~The buffer width is not reduced by more than 25 percent of the standard width in any~~
37 ~~one location;~~
- 38 (c) ~~The wetland contains variations in sensitivity due to existing physical characteristics~~
39 ~~or the character of the buffer varies in slope, soils, or vegetation, and the wetland~~
40 ~~would benefit from a wider buffer in places and would not be adversely impacted by~~
41 ~~a narrower buffer in other places;~~
- 42 (d) ~~The total area contained in the buffer area after averaging is no less than that which~~
43 ~~would be contained within the standard buffer; and~~
- 44 (e) ~~The buffer width is not reduced by more than 20 percent of the standard width or 50~~
45 ~~feet, whichever is greater.~~
- 46 (f) ~~Buffer averaging is allowed as an alternative to buffer reduction with enhancement.~~
47 ~~Only one method shall be implemented.~~
- 48 (ge) ~~When wetland standard buffers are reduced for mitigation purposes, wetland areas~~
49 ~~shall not to be filled to create wetland buffers.~~
- 50 (3) ~~The~~

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1 use of hazardous substances, pesticides and fertilizers in the wetland and its buffer may be
2 prohibited by the Development Services Director.

3 ~~(6) Temporary and permanent signs and fencing shall be installed along the outer boundary of
4 the wetland buffer in accordance with WMC 21.24.140.~~

5 ~~(7) Livestock. Property owners shall implement a farm management plan or standards to protect
6 and enhance wetland water quality pursuant to Chapter 21.30 WMC. (4) Unless otherwise
7 provided, the following restrictions shall apply to all development proposals, which include
8 the introduction of livestock:~~

9 ~~(a) To prevent damage to Class 1 and 2 wetlands:~~

10 ~~(i) A plan to protect and enhance the wetland's water quality shall be implemented pursuant to
11 Chapter 21.30 WMC; or~~

12 ~~(ii) Fencing located at the buffer edge shall be required.~~

13 ~~(5) Standards pertaining to access to streams for watering purposes, stream crossing
14 requirements and use of natural barriers and vegetative buffering in lieu of fencing shall be
15 included in administrative rules promulgated pursuant to this chapter.~~

16 ~~(6) The livestock restrictions contained in subsection (4) of this section shall not apply to
17 wetlands defined as grazed wet meadows, regardless of their classification.~~

18
19 **21.24.320340 Wetlands – Permitted activities/alterations.**

20 The Development Services Director may allow alterations to a wetland and wetland buffers
21 under the following conditions:

22 (1) Special studies completed by qualified professionals determine:

23 (a) The wetland does not serve any of the valuable functions of wetlands identified in WMC
24 21.06.710 including, but not limited to, biologic and hydrologic functions; or

25 (b) The proposed development will protect or enhance the wildlife habitat, natural
26 drainage or other valuable functions of the wetland and will be consistent with the
27 purposes of this chapter;

28 (c) The existing on-site habitat value, hydrology, erosion and deposition and/or water
29 quality; and

30 (d) Specific recommendations for mitigation which may be required as approval. The mitigation
31 may include, but is not limited to, construction techniques or design, drainage or density
32 specifications;

33 (2) There shall be no introduction of any plant or wildlife which is not indigenous to the Puget
34 Sound region into any wetland or buffer unless authorized by a State or Federal permit or
35 approval;

36 (3) Utilities may be allowed in wetland buffers if the Development Services Director determines
37 that:

38 (a) No practical alternative location is available;

39 (1) Alterations. Alterations to wetlands and their buffers may be allowed in addition to those
40 established in WMC 21.24.040 and WMC 21.24.050, if the City determines that there is no
41 practical alternative location with less adverse impact on the wetland or its buffer, subject to
42 mitigation requirements set forth in this chapter, as follows:

43 (a) Conservation and Restoration Activities. Conservation and recreation activities
44 include activities that are aimed at protecting soil, water, vegetation, or wildlife.

45 (b) Public and Private Utilities. Utilities may be allowed in wetland buffers if all of the
46 following criteria are met:

47 (i) Placement of the utilities may be located in the outer 25 percent of the buffer
48 area;

49 (ii) The utility corridor and construction area are the minimum size necessary;

50 (iii) The utility is not located in a wetland or buffer designated as a fish and
51 wildlife habitat conservation area pursuant to WMC 21.24.400;

Commented [SC64]: Moved
Commented [SC65]: Section was moved.
Requirements are included in greater detail in
21.24.320.

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(biv) Mitigation is required that minimizes the impact of the proposal on the wetland buffer;

(ev) ~~and~~The utility corridor meets the provisions of ~~Policy~~Policies U-1.125 and U-1.8 of the ~~City of Woodinville~~ Comprehensive Plan;

~~(4) Sewer utility corridors may be allowed in wetland buffers only if:~~

- ~~(a) The applicant demonstrates that sewer lines are necessary for gravity flow;~~
- ~~(b) The corridor is not located in a wetland or buffer used by species listed as endangered or threatened by the State or Federal government or containing critical or outstanding actual habitat for those species or heron rookeries or raptor nesting trees;~~
- ~~(c) The corridor alignment including, but not limited to, any allowed maintenance roads follows a path beyond a distance equal to 75 percent of the buffer width from the wetland edge;~~

~~(d) Corridor construction(vii) Construction and maintenance protects the wetland and buffer and is aligned to avoid cutting trees greater than 12 inches in diameter at breast height, when possible, and pesticides, herbicides and other hazardous substances are not used; and~~

~~(e) An additional, contiguous and undisturbed buffer, equal in width to the proposed corridor including any allowed maintenance roads, is provided to protect the wetland;~~

~~(f) The corridor is revegetated with appropriate native vegetation at preconstruction densities or greater immediately upon completion of construction or as soon thereafter as possible, and the sewer utility ensures that such vegetation survives;~~

~~(g) Any additional corridor access for maintenance is provided, to the extent possible, at specific points rather than by a parallel road;~~

~~(h) The width of any necessary parallel road providing access for maintenance is as small as possible, but not greater than 15 feet, the road is maintained without the use of herbicides, pesticides or other hazardous substances and the location of the road is contiguous to the utility corridor on the side away from the wetland; and~~

~~(i) The utility corridor meets the provisions of Policy U-1.12 of the City of Woodinville Comprehensive Plan;~~

~~(5)(vii) For public sewer and water distribution only, if the corridor cannot be located in the outer 25 percent of the buffer area due to gravity flow, it may be located in another part of the buffer with the least adverse impact to the wetland.~~

~~(c) Drilling for Utilities or Utility Corridors under a Wetland. Entrance/exit portals shall be located completely outside of the wetland buffer, provided that drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column will be disturbed.~~

~~(d5) Utility Joint Use. Joint use of an approved sewer utility corridor by other utilities may be allowed.~~

~~(6) The following surface water management activities and facilities may be allowed in wetland buffers only as follows:~~

~~(a)(e) Surface Water Discharge. Surface water discharge to a wetland from a detention facility, presettlement pond or other surface water management activity or facility may be allowed in the wetland buffer if the discharge does not increase the rate of flow, change the plant composition in a forested wetland, or decrease the water quality of the wetland.;~~

~~(fb) Class 1 or 2 Detention Facility, Category IV wetlands or buffer which has as its major function the storage of water may be used for a retention/detention facilitiesfacility if:~~

Commented [SC66]: No corridors or roads should be included as a permitted alteration in a buffer. A project of this scope would be required to obtain a critical area exemption. A permitted alteration was included to bore utilities underneath as an alternative to this.

Commented [SC67]: These substances are prohibited pursuant to (3), below

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~~(i) A public agency and utility exception is granted pursuant to WMC 21.24.080; (i) A presettlement pond is installed outside of the wetland buffer;~~

Commented [SC68]: Consider adding this back in

~~(ii) All requirements of the King County Surface Water Design Manual/City's adopted surface water design manual are met;~~

~~(iii) The use will not alter the rating or the factors used in rating the wetland; and~~

~~(iv) The proposal is in compliance with the latest adopted findings of the Puget Sound Wetlands Research Project; and~~

~~(iv) There are no significant adverse impacts to the wetland.;~~

~~(gvi) Dispersal Trenches. Grass-lined swales and dispersal trenches may be located in the outer 25 percent of the buffer area. All other Energy dissipaters and associated pipes may be permitted if no practical alternative exists and if the function of the buffer is not adversely affected. Other surface water management facilities are not allowed within the buffer area.;~~

~~(c) Class 3 wetlands or buffer which has as its major function the storage of water may be used as a retention/detention facility if a presettlement pond is required and all requirements of the King County Surface Water Design Manual are met; and~~

~~(d) Use of a wetland buffer for a surface water management activity or facility, other than a retention/detention facility, such as an energy dissipater and associated pipes, may be allowed only if the applicant demonstrates, to the satisfaction of the Development Services Director, that:~~

~~(i) No practicable alternative exists; and~~

~~(ii) The functions of the buffer or the wetland are not adversely affected;~~

~~(h7) Trails. Public and private trails, or visual access to the sensitive area, are encouraged in, may be located in wetland buffers provided:~~

~~(ia) The trail surface shall not be made of impervious materials, except that public multi-purpose trails may be made of impervious materials if they meet all other requirements, including water quality and quantity; and~~

~~(ib) Buffers shall be expanded, where possible, equal to the width of the trail corridor including disturbed areas.;~~

~~(8i) Existing Roads. Wetland road crossings Widening of existing roads may be allowed on the outer 25 percent of the buffer area if:~~

Commented [SC69]: 5/20/15: Changed to reflect allowances for road widenings only, not new roads.

~~(ia) The Development Services Director determines that There is no practical alternative access is practical with less environmental adverse impact;~~

~~(iib) Crossings The proposal minimizes impact to the wetland and provide mitigation for unavoidable impacts through restoration, enhancement, or replacement of disturbed areas;~~

~~(iiie) Crossings The proposal does not change the overall wetland hydrology;~~

~~(ivd) Crossings The proposal does not diminish the flood storage capacity of the wetland; and~~

~~(ve) Crossings The proposal are is constructed during summer low water periods.;~~ and

~~(vi) Crossings are the minimum size or length necessary to provide access.~~

~~(2) There shall be no introduction of any plant or wildlife that is not indigenous to the Puget Sound region into any wetland or buffer unless authorized by a state or federal permit or approval.~~

~~(3) The use of hazardous substances, pesticides, and fertilizers in the wetland and its buffer shall be prohibited.~~

21.24.330 Wetlands – Critical areas report additional requirements.

(1) Additional Report Requirements. In addition to the general critical report requirements of WMC 21.24.110, critical areas reports for wetlands shall include the following information:

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- 1 (a) Prepared by a Qualified Professional. The critical areas report shall be prepared by a
2 qualified professional who is a certified wetland scientist. The qualified professional
3 shall have a minimum of five years of experience in the field of wetland science and
4 experience in preparing wetland reports.
- 5 (b) Wetland Assessment. The wetland assessment shall include the following
6 information on the site:
- 7 (i) Wetland delineation, category and required buffers;
 - 8 (ii) Existing wetland acreage;
 - 9 (iii) Vegetative, faunal, and hydrologic characteristics;
 - 10 (iv) Soil and substrate conditions;
 - 11 (v) A discussion of the water sources supplying the wetland and documentation
12 of hydrologic regime (locations of inlet and outlet features, water depths
13 throughout the wetland, evidence of recharge or discharge, evidence of water
14 depths throughout the year – drift lines, algal layers, moss lines, and
15 sediment deposits); and
 - 16 (vi) Clearing limits.
- 17 (c) Habitat and Vegetation Conservation. A habitat and native vegetation conservation
18 strategy that addresses methods to protect and enhance on-site habitat and wetland
19 functions.
- 20 (d) Wetland Evaluation. Functional evaluation for the wetland and adjacent buffer using
21 a local or state agency staff-recognized method and including the reference of the
22 method and all data sheets.
- 23 (e) Proposed Mitigation. If required, a mitigation plan consistent with WMC 21.24.120
24 and WMC 21.24.340. The mitigation plan shall include a written assessment and
25 accompanying maps of the mitigation area, including the following information at a
26 minimum:
- 27 (i) Proposed wetland acreage;
 - 28 (ii) Proposed vegetative, faunal, and hydrologic characteristics;
 - 29 (iii) Surface and subsurface hydrologic conditions including an analysis of
30 existing and future hydrologic regime and proposed hydrologic regime for
31 enhanced, created, or restored mitigation areas;
 - 32 (iv) Proposed soil and substrate conditions;
 - 33 (v) Proposed adjacent site conditions;
 - 34 (vi) Required wetland buffers (including any buffer reduction and mitigation
35 proposed to increase the plant densities, remove weedy vegetation, and
36 replant the buffers);
- 37 (f) Maintenance. A written plan outlining proposed maintenance and management
38 practices that will provide long term protection of the wetland consistent with WMC
39 21.24.130.

40
41 **21.24.340 Wetlands – Mitigation.**

42 (1) General. Mitigation shall be consistent with the requirements in WMC 21.24.120. An
43 evaluation of mitigation sequencing, including avoidance, minimization, and compensation,
44 shall be provided pursuant to WMC 21.24.120.

45 **21.24.350 Wetlands – Mitigation requirements.**

46 (1) When an alteration to a critical area is proposed, such alteration shall be avoided,
47 minimized, or compensated for, as outlined by WAG 197-11-768, in the following order of
48 preference:

- 49 (a) Avoiding the impact altogether by not taking a certain action or parts of actions;
- 50 (b) Minimizing impacts by limiting the degree or magnitude of the action and its
51 implementation;

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- ~~(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;~~
- ~~(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; and/or~~
- ~~(e) Compensating for the impact by replacing or providing substitute resources or environments.~~

~~(2) Mitigation shall achieve equivalent or greater biological functions. Mitigation for alterations to wetlands shall achieve equivalent or greater biologic functions. Mitigation plans shall be consistent with the Department of Ecology Guidelines for Developing Freshwater Wetlands Mitigation Plans and Proposals, 1994, as revised.~~

Commented [SC70]: This mitigation sequencing has been moved to the general mitigation requirements in WMC 21.24.120. Specific mitigation requirements for wetlands are included in 21.24.340.

~~(3) Mitigation for Lost Functions and Values. Mitigation actions shall address functions affected by the alteration to achieve functional equivalency or improvement, and shall provide similar wetland functions as those lost, except when:~~

- ~~(a) The lost wetland provides minimal functions as determined by a site-specific function assessment and the proposed mitigation action(s) will provide equal or greater functions or will provide functions shown to be limiting within a watershed through a formal watershed assessment plan or protocol; or~~
- ~~(b) Off-site replacement will best meet formally identified regional goals, such as replacement of historically diminished wetland types.~~

~~(4) Preference of Mitigation Actions. Mitigation actions that require compensation by replacing, enhancing, or substitution shall occur in the following order of preference:~~

- ~~(a) Restoring wetlands on upland sites that were formerly wetlands wetland acreage and functions to an area where those functions formerly occurred.~~
- ~~(b) Creating new wetland areas and functions in an area where they did not previously occur.~~
- ~~(c) Enhancing significantly degraded wetlands at an existing wetland.~~
- ~~(d) Preserving an existing high-quality wetlands that are under imminent threat to protect it from future loss or degradation.~~

~~(5) Type and Location of Mitigation. Mitigation actions shall be conducted within the same subdrainage basin and in-kind and located on the same site as the alteration, except when all of the following apply:~~

- ~~(a) There are no reasonable opportunities for on-site or in-subdrainage-basin opportunities or on-site and in-subdrainage-basin opportunities do not have a high likelihood of success due to development pressures, adjacent land uses, wildlife impacts, or on-site buffers or connectivity are inadequate;~~
- ~~(b) Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland;~~
- ~~(c) Off-site locations shall be in the same subdrainage sub-basin and the same Water Resource Inventory Area (WRIA) as the impacted wetland; and unless established regional or watershed goals for water quality, flood or conveyance, habitat or other wetland functions have been established and strongly justify location of mitigation at another site; and~~
- ~~(d) The off-site location is approved by the Development Services Director. The Development Services director shall approve or deny the off-site location based on written findings and recommendations by a qualified wetland biologist. wetland mitigation will best meet formally identified watershed goals, such as replacement of historically diminished wetland types.~~

~~(6) Mitigation Timing. Where feasible, mitigation projects shall be completed prior to activities that will disturb wetlands. In all other cases, mitigation shall be completed immediately following disturbance and prior to use or occupancy of the activity or development.~~

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1 Construction of mitigation projects shall be timed to reduce impacts to existing wildlife and
2 flora.

3 ~~(7) Mitigation Monitoring and Maintenance. Mitigation projects shall be monitored and~~
4 ~~maintained for a period of five years. A monitoring protocol shall be approved by the~~
5 ~~Development Services Director and monitoring reports shall be submitted to the City as~~
6 ~~required.~~

Commented [SC71]: Moved down below

7
8 (58) Mitigation Ratios.

9 (a) Acreage Replacement Ratios. The following ratios shall apply to creation or
10 restoration that is in-kind, on-site, the same category, timed prior to or concurrent
11 with alteration, and has a high probability of success. These ratios do not apply to
12 remedial actions resulting from unauthorized alterations; greater ratios shall apply in
13 those cases. These ratios do not apply to the use of credits from a ~~s~~State-certified
14 wetland mitigation bank. ~~When credits from a certified bank are used, replacement~~
15 ~~ratios should be consistent with the requirements of the bank's certification.~~The first
16 number specifies the acreage of replacement wetlands and the second specifies the
17 acreage of wetlands altered.

Category I Class-1 6.4 to 1

Category II 3 to 1

Category III Class-2 2 to 1

Category IV Class-3 1.5 to 1

18 (b) Increased Replacement Ratio. The ~~Development Services Director may increase the~~
19 ~~ratios under the following circumstances: shall be increased when one of the~~
20 ~~following applies:~~

- 21 (i) Uncertainty exists as to the probable success of the proposed restoration or
22 creation; ~~or~~
23 (ii) A significant ~~or extended~~ period of time will elapse between impact and
24 replication of wetland functions; ~~or~~
25 (iii) Proposed mitigation will result in a lower category wetland or reduced
26 functions relative to the wetland being impacted; or
27 (iv) The impact ~~was is the result of~~ an authorized ~~impact activity or use.~~

28 (c) Wetlands Enhancement as Mitigation. Impacts to wetland functions may be mitigated
29 by enhancement of existing significantly degraded wetlands, but must be used in
30 conjunction with restoration and/or creation.

31 (i) At minimum, enhancement acreage shall be at least double the acreage
32 required for creation or restoration under Subsection (a). A higher ratio may
33 be required if the enhancement proposal results in minimal gain in the
34 performance of wetland functions and/or result in the reduction of other
35 wetland functions currently being provided.

36 (ii) Mitigation ratios for enhancement in combination with other forms of mitigation
37 shall range from 6:1 to 3:1 and be limited to Class III and Class IV wetlands.

38 (iii) A critical areas report consistent with WMC 21.24.110 and WMC 21.24.330
39 shall include information demonstrating how enhancement will increase
40 functions of degraded wetlands and how the increase will mitigate for loss of
41 wetland areas and functions at the impact site.

42 ~~(6) Mitigation Timing. Where feasible, mitigation projects shall be completed prior to activities~~
43 ~~that will disturb wetlands. In all other cases, mitigation shall be completed immediately~~
44 ~~following disturbance and prior to use or occupancy of the activity or development.~~

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1 Construction of mitigation projects shall be timed to reduce impacts to existing wildlife and
2 flora.

3 (7) Monitoring and Maintenance. Mitigation projects shall be monitored and maintained
4 consistent with WMC 21.24.130.

5 (8) Buffers for Mitigation Sites. Mitigation sites shall have buffers consistent with the
6 requirements of this chapter. The buffer for a wetland that is created, restored, or enhanced
7 as compensation for approved wetland alterations shall be subject to the buffer of the
8 highest wetland category involved.

9 (c) Buffer Mitigation Ratios. When the standard buffers for Class 1, 2, and 3 wetlands are
10 reduced, enhancement ratios for the reduced buffers will occur at a 1:1 ratio.

11 (d) (9) Wetland Mitigation Banks. Credits from a wetland mitigation bank may be approved for
12 use as compensation for unavoidable impacts to wetlands, when:

13 (a) The following criteria shall be met in order to apply credits from a wetland mitigation
14 bank when:

- 15 (i) The bank is certified under Chapter 173-700 WAC;
- 16 (ii) The City determines that the wetland mitigation bank provides appropriate
17 compensation for the authorized impacts; and
- 18 (iii) The proposed use of credits is consistent with the terms and conditions of the
19 bank's certification.

20 (be) Replacement ratios for projects using bank credits shall be consistent with
21 replacement ratios specified in the bank's certification.

22 (c) Credits from a certified wetland mitigation bank may be used to compensate for
23 impacts located within the service area specified in the bank's certification. In some
24 cases, bank service areas may include portions of more than one adjacent drainage
25 basin for specific wetland functions.

26
27 **21.24.360 Wetlands — Limited exemption.**

28 Class 3 wetlands less than 1,000 square feet may be exempted from the provisions of WMC
29 21.24.320 to 21.24.340 and may be altered by filling or dredging if the Development Services
30 Director determines that the cumulative impacts do not unduly counteract the purposes of this
31 chapter and are mitigated pursuant to an approved mitigation plan.

32 **21.24.350 210 Flood hazard areas — Components. Frequently flooded areas - Designation.**

33 (1) Definition. Frequently flooded areas are those areas meeting one or more of the following
34 components. These areas shall be designated as frequently flooded areas and shall be
35 subject to the provisions of this chapter:

36 (1) A flood hazard area consists of the following components:

- 37 (a) Floodplain;
- 38 (b) Flood fringe;
- 39 (c) Zero-rise floodway; and
- 40 (d) FEMA floodway.

41 (2) The Public Works Director shall determine the flood hazard area after obtaining, reviewing
42 and utilizing base flood elevations and available floodway data for a flood having a one percent
43 chance of being equaled or exceeded in any given year, often referred to as the "100-year
44 flood." The base flood is determined for existing conditions, unless a basin plan including
45 projected flows under future developed conditions has been completed and adopted by the City
46 of Woodinville, in which case these future flow projections shall be used. In areas where the
47 Flood Insurance Study for the County includes detailed base flood calculations, those
48 calculations shall be used until projections of future flows are completed and adopted by the
49 City of Woodinville.

50 **21.24.220 Flood Insurance Study adopted.**

51 (2) Designation. Frequently flooded areas shall include the following areas:

Commented [SC72]: DOE does not recommend the filling exemption for wetlands as previously permitted.

Commented [SC73]: Frequently flooded areas (previously flood hazard areas) has been moved starting from 21.24.210. The sections have been renumbered to start at 21.24.300, adjacent to streams/fish and wildlife areas. The purpose of this was to place similar or overlapping critical areas together for ease of reading.

Due to this move, the revisions track as new or added language

Commented [SC74]: Should we add definitions from definitions chapter?

Commented [SC75]: Incorporated with sections below.

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1 (a) Areas identified on the flood insurance map(s). These areas of special flood hazard
2 identified by the Federal Insurance and Mitigation Administration (FIMA) in a
3 scientific and engineering report entitled "the most current approved version of the
4 Flood Insurance Study for King County" dated November 8, 1999, and any revisions
5 thereto, with accompanying Flood Insurance Maps flood insurance maps (FIRM), and
6 any revisions thereto. The Flood Insurance Study and accompanying maps are
7 hereby adopted by reference and declared to be a part of this chapter. The Flood
8 Insurance Study and the FIRM are on file at the Woodinville City Hall. The best
9 available information for flood hazard area identification as outlined in WMC
10 21.24.240(2) shall be the basis for regulation until a new FIRM is issued which
11 incorporates the data utilized under WMC 21.24.240(2).

Commented [SC76]: Moved to Subsection 6 below

12 (b) Areas identified by the City. Those areas of special flood hazard identified by the City
13 based on a review of base flood elevation and floodway data available from federal,
14 state, county or other agency sources when base flood elevation data has not been
15 provided from FIMA, identified as A and V zones of the flood insurance maps.

16 (3) For all new structures or substantial improvements in a flood hazard area, the applicant shall
17 provide certification by a professional civil engineer or land surveyor licensed by the State of
18 Washington for the following:

19 (a) The actual as-built elevation of the lowest floor, including basement; and

20 (b) The actual as-built elevation to which the structure is flood-proofed, if applicable.

21 The engineer or surveyor shall indicate if the structure has a basement.

Commented [SC77]: 5/20/15: Taken from existing 21.24.260

22 (4) Supplemental Information. The City may use additional flood information that is more
23 restrictive or detailed than that provided in the Flood Insurance Study to designate
24 frequently flooded areas, including data on channel migration, historical data, high water
25 marks, photographs of past flooding, location of restrictive floodways, maps showing future
26 build-out conditions, maps that show riparian habitat areas, or similar information.

27 (5) Flood Elevation Data. When base flood elevation data is not available (A and V zones), the
28 City shall obtain, review, and reasonably utilize any base flood elevation and floodway data
29 available from a federal, state, or other source, in order to administer this Chapter.

30 (6) Designation Made by City. The flood insurance maps are to be used as a guide for the City,
31 project applicants, and the public and should be considered a minimum designation of
32 frequently flooded areas. Flood insurance maps are subject to continuous updated as areas
33 are reexamined or new areas are identified. Newer and more restrictive information for flood
34 hazard area identification shall be the basis for regulation.

35 (7) The Building Official shall maintain the certifications required by this section for public
36 inspection.

37
38 **21.24.360~~230~~ Flood fringe Frequently flooded areas – Development standards and**
39 **permitted alterations.**

40 (1) Base flood storage volume. Development shall not reduce the effective base flood storage
41 volume of the floodplain. Grading or other activity which that would reduce the effective
42 storage volume shall be mitigated by creating compensatory storage on the site or off the
43 site if legal. Legal arrangements can shall be made to assure that the effective compensatory
44 storage volume will be preserved in perpetuity over time. Grading for construction of
45 livestock manure storage facilities to control nonpoint source water pollution designed to the
46 standards of and approved by the County Conservation District is exempt from this
47 compensatory storage requirement.

Commented [SC78]: Not applicable within city limits

48 (2) In addition to requiring the applicant to meet the requirements of WMC 21.24.360 through
49 21.24.380 and other applicable local, State, and Federal requirements, the City shall:

50 (a) Notify adjacent communities and the Department of Ecology prior to any alteration or
51 relocation of a watercourse designated as a zone beginning with A on a FIRM map.

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1 and submit evidence of such notification to the Federal Insurance and Mitigation
2 Administration.

3 (b) Require that maintenance be provided within the altered or relocated portion of said
4 watercourse so that the flood-carrying capacity is not diminished.

5 **21.24.370 Frequently flooded areas – Permitted alterations activities.**

6 (1) Alterations. Alterations to frequently flooded areas may be allowed in addition to those
7 activities and uses established in WMC 21.24.040 and WMC 21.24.050.

8 (2) Flood Fringe. The following shall apply to development located within the flood fringe:

9 (a) No structure shall be allowed which would be at risk due to stream bank
10 destabilization including, but not limited to, that associated with channel relocation or
11 meandering.

12 (3) All elevated construction shall be designed and certified by a professional structural
13 engineer licensed by the State of Washington and shall be approved by the Public
14 Works Director prior to construction.

15 (b4) Subdivisions, short subdivisions and binding site plans shall meet the following
16 requirements:

17 (i) New building lots shall contain 5,000 square feet or more of buildable land
18 outside the zero-rise floodway, and building setback areas shall be shown on
19 the face of the plat to restrict permanent structures to this buildable area;

20 (ii) All utilities and facilities such as sewer, gas, electrical and water systems
21 shall be located and constructed to minimize or eliminate flood damage
22 consistent with subsections (5), (6) and (7) (c), (d) and (e) of this section;

23 (iii) Base flood data and flood hazard notes shall be shown on the face of the
24 recorded subdivision, short subdivision or binding site plan including, but not
25 limited to, the base flood elevation, required flood protection elevations and
26 the boundaries of the floodplain and the zero-rise floodway, if determined;
27 and

28 (iv) The following notice shall also be shown on the face of the recorded
29 subdivision, short subdivision, or binding site plan for all affected lots:

30 **NOTICE**

31
32 Lots and structures located within flood hazard areas
33 may be inaccessible by emergency vehicles during flood
34 events. Residents and property owners should take
35 appropriate advance precautions.

36 (e) If a subdivision proposal or other proposed new development is
37 in a flood-prone area, any such proposals shall be reviewed to
38 assure that:

39 (iv) All such proposals are consistent with the need to minimize
40 flood damage within the flood-prone area; and

41 (ii) All public utilities and facilities, such as sewer, gas, electrical, and water
42 systems, are located and constructed to minimize or eliminate flood damage;
43 and

44 (iii) Adequate drainage is provided to reduce exposure to flood hazards.

45 (5c) New residential structures and substantial improvements of existing residential
46 structures shall meet the following requirements:

47 (a) The lowest floor, including basement, shall be elevated one-to-one and one-
48 half-foot above the base flood elevation.
49
50

Commented [SC79]: Unnecessary – standard requirement under IBC for new construction, not just for those in frequent flood areas.

Commented [SC80]: Listed above.

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Commented [SC81]: Residential and non-residential structures were consolidated together and section 6 was eliminated to reduce redundancy. Requirements for both were nearly the same.

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(bii) Portions of a structure which are below the lowest floor area shall not be fully enclosed. The areas and rooms below the lowest floor shall be designed to automatically equalize hydrostatic and hydrodynamic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for satisfying this requirement shall meet or exceed the following requirements:

(iA) A minimum of two openings on opposite walls having a total open area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

(iiB) The bottom of all openings shall be no higher than one foot above grade; and

(iiiC) Openings may be equipped with screens, louvers, or other coverings or devices if they permit the unrestricted entry and exit of floodwaters;

(eiii) Materials and methods which are resistant to and minimize flood damage shall be used; and

(div) All electrical, heating, ventilation, plumbing, air conditioning equipment and other utility and service facilities shall be flood-proofed to or elevated above the flood protection elevation;

(6) New nonresidential structures and substantial improvements of existing nonresidential structures shall meet the following requirements:

(a) The elevation requirement for residential structures contained in subsection (5) of this section shall be met; or

(b) The structure shall be flood-proofed to the flood protection elevation and shall meet the following requirements:

(i) The applicant shall provide certification

(v) The structures shall be certified by a professional civil or structural engineer licensed by the State of Washington that the flood-proofing methods are adequate to withstand the anticipated flood depths, pressures, velocities, impacts, uplift forces and other factors associated with the base flood. After construction, the engineer shall verify that the permitted work conforms with the approved plans and specifications; and

(iii vi) Approved building permits for flood-proofed nonresidential structures shall contain a statement notifying applicants that flood insurance premiums shall be based upon rates for structures, which that are one foot below the flood-proofed level;

(c) Materials and methods which are resistant to and minimize flood damage shall be used; and

(d) All electrical, heating, ventilation, plumbing, air conditioning equipment and other utility and service facilities shall be flood-proofed to or elevated above the flood protection elevation;

(7 vii) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

(8d) Mobile and manufactured homes shall meet the following requirements:

(a) Manufactured homes and (i) New mobile and manufactured homes to be placed or substantial ly improvements d on sites of existing mobile and manufactured homes :

(i) Outside of a mobile home park or subdivision;

(ii) In a new mobile home park or subdivision;

(iii) In an expansion to an existing mobile home park or subdivision; or

(iv) In an existing mobile home park or subdivision on which a mobile home has incurred "substantial damage" as the result of a flood;

Commented [SC82]: Section appears to contradict section immediate above. What would be the room below the lowest floor?

Commented [SC83]: Figure out what this is

Commented [SC84]: Unnecessary to call out specific cases. This calls out every possible location for a mobile/manufactured home

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1 shall be elevated on a permanent foundation such that the lowest floor of the
2 manufactured or mobile home is elevated one foot above the base flood
3 elevation, and is securely anchored to an adequately designed foundation
4 system to resist flotation, collapse and lateral movement.

Commented [SC85]: Incorporated in (ii)

5 ~~(b) Manufactured and mobile homes to be placed or substantially improved on~~
6 ~~sites in an existing mobile home park or subdivision that are not subject to the~~
7 ~~above manufactured and mobile home provisions must be elevated so that~~
8 ~~either:~~

Commented [SC86]: City does not have any existing mobile home parks or subdivisions

9 ~~(i) The lowest floor of the manufactured or mobile home is elevated to one foot~~
10 ~~above the base flood elevation; or~~

11 ~~(ii) The manufactured or mobile home chassis is supported by reinforced piers or~~
12 ~~other foundation elements of at least equivalent strength that are no less than~~
13 ~~36 inches in height above grade and be securely anchored to an adequately~~
14 ~~designed foundation system to resist flotation, collapse, and lateral~~
15 ~~movement.~~

16 ~~(c) All new or substantially improved manufactured and mobile homes shall be~~
17 ~~securely anchored to prevent flotation, collapse, or lateral movement, and~~
18 ~~shall be installed using methods and practices that minimize flood damage.~~
19 ~~Anchoring methods may include, but are not limited to, use of over-the-top or~~
20 ~~frame ties to ground anchors (reference consistent with FEMA's~~
21 ~~"Manufactured Homes Installation in Flood Hazard Areas" guidebook for~~
22 ~~additional techniques).~~

23 ~~(iii) No permit or approval for the following~~ Compliance with this chapter shall be
24 ~~required for new construction or expansion of a mobile home park, or~~
25 ~~reconstruction of streets, utilities or pads in an existing mobile home park~~
26 ~~exceeding 50 percent of the assessed value of such structures, granted~~
27 ~~unless all manufactured or mobile homes within the mobile home park meet~~
28 ~~the requirements in subsection (8)(b) of this section:~~

29 ~~(i) A new mobile home park;~~

30 ~~(ii) An expansion of an existing mobile home park; or~~

31 ~~(iii) Any repair or reconstruction of streets, utilities or pads in an existing mobile~~
32 ~~home park which equals or exceeds 50 percent of the value of such streets,~~
33 ~~utilities or pads.~~

Commented [SC87]: Incorporated in section above.

34 ~~(e-9) Recreational vehicles must either~~ shall meet one of the following requirements:

35 ~~(ia) Be on the site for fewer than 180 consecutive days;~~

36 ~~(iib) Be fully licensed and ready for highway use, on its wheels or jacking system,~~
37 ~~be attached to the site only by quick disconnect-type utilities and security~~
38 ~~devices, and have no permanently attached additions; or~~

39 ~~(iiie) Meet the requirements of subsection (8d) of this section and the elevations~~
40 ~~and anchoring requirements of manufactured and mobile homes.~~

41 ~~(f-10) Utilities shall meet the following requirements:~~

42 ~~(ia) All new and replacement water supply systems shall be designed to minimize~~
43 ~~or eliminate infiltration of flood waters into the system;~~

44 ~~(iib) New and replacement sanitary sewage systems shall be designed to~~
45 ~~minimize or eliminate infiltration of flood waters into the systems and~~
46 ~~discharge from the systems into flood waters;~~

47 ~~(iiie) On-site waste disposal systems shall be located to avoid impairment to them~~
48 ~~or contamination from them during flooding;~~

49 ~~(ivd) Sewage and agricultural waste storage facilities shall be flood-proofed to the~~
50 ~~flood protection elevation;~~

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1 (ve) Above-ground utility transmission lines, other than electric transmission
2 lines, shall only be allowed for the transport of nonhazardous substances;
3 and

4 (vif) Buried utility transmission lines transporting hazardous substances shall be
5 buried at a minimum depth of four feet below the maximum depth of scour for
6 the base flood, as predicted by a professional civil engineer licensed by the
7 State of Washington, and shall achieve sufficient negative buoyancy so that
8 any potential for flotation or upward migration is eliminated.

9 (g11) Critical public facilities may be allowed within the flood fringe of the floodplain, but
10 only when no feasible alternative site is available. Critical facilities shall be evaluated
11 through the conditional or special use permit process. Critical public facilities
12 constructed within the flood fringe shall have the lowest floor elevated to three or
13 more feet above the base flood elevation. Flood-proofing and sealing measures shall
14 be taken to ensure that hazardous substances will not be displaced by or released
15 into floodwaters. Access routes elevated to or above the base flood elevation shall
16 be provided to all critical essential public facilities from the nearest maintained public
17 street or roadway.

18 (h12) Prior to approving any permit for alterations in the flood fringe, the Public Works
19 Director of the City shall determine that all permits required by State or Federal
20 regulations law have been obtained.

Commented [SC88]: Check with critical facilities definition

21 21.24.240 Zero-rise floodway – Development standards and permitted alterations.

22 (1) (3) Zero-rise floodway and FEMA floodway. The requirements which that apply to the flood
23 fringe in Subsection (2) shall also apply to the zero-rise floodway and FEMA floodway. The
24 more restrictive requirements shall apply where there is a conflict.

Commented [SC89]: Consolidated with FEMA floodway section below

25 (a) New residential or nonresidential structures are prohibited within the FEMA floodway.

26 (2b) A development proposal including, but not limited to, new or reconstructed
27 structures shall not cause any increase in the base flood elevation unless the
28 following requirements are met:

29 (a) Amendments to the Flood Insurance Rate Map are adopted by FEMA, in
30 accordance with 44 CFR 70, to incorporate the increase in the base flood
31 elevation; and

32 (b) Appropriate legal documents are prepared in which all property owners
33 affected by the increased flood elevations consent to the impacts on their
34 property. These documents shall be filed with the title of record for the
35 affected properties.

36 (3c) The following are presumed to produce no increase in base flood elevation and
37 shall not require a special study/critical area report to establish this fact:

38 (a) New residential structures outside the FEMA floodway on lots in existence
39 before March 31, 1993, which contain less than 5,000 square feet of
40 buildable land outside the zero-rise floodway and which have a total building
41 footprint of all proposed structures on the lot of less than 2,000 square feet;

42 (b) Substantial improvements of existing residential structures in the zero-rise
43 floodway, but outside the FEMA floodway, where the footprint is not
44 increased; or

45 (c) Substantial improvements of existing residential structures meeting the
46 requirements for new residential structures in WMC 21.24.230(2)(c); or

47 (4) Substantial improvements of existing residential structures in the FEMA
48 floodway, meeting the requirements of WAC 173-158-070, as amended.

49 (4d) Post or piling construction techniques which permit water flow beneath a structure
50 shall be used.

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- 1 ~~(5e) All temporary structures or substances hazardous to public health, safety and~~
2 ~~welfare, except for hazardous household substances or consumer products~~
3 ~~containing hazardous substances, shall be removed from the zero-rise floodway~~
4 ~~during the flood season from September 30th to May 1st.~~
5 ~~(6f) New residential or nonresidential structures shall meet the following requirements:~~
6 ~~(a) The structures shall be outside the FEMA floodway; and~~
7 ~~(b) The structures shall be on lots in existence before March 31, 1993, which contain~~
8 ~~less than 5,000 square feet of buildable land outside the zero-rise floodway.~~
9 ~~(7g) Utilities may be allowed within the zero-rise floodway if the City determines that no~~
10 ~~feasible alternative site is available, subject to the following requirements:~~
11 ~~(a) Installation of new on-site sewage disposal systems shall be prohibited~~
12 ~~unless a waiver is granted by the department of public health; and~~
13 ~~(b) Construction of sewage treatment facilities shall be prohibited.~~
14 ~~(8) Critical facilities shall not be allowed within the zero-rise floodway except as~~
15 ~~provided in WMC 21.24.230(11).~~
16 ~~(9) Livestock manure storage facilities and associated nonpoint source water pollution~~
17 ~~facilities designed, constructed and maintained to the standards of and approved in a~~
18 ~~conservation plan by the King County Conservation District may be allowed if the~~
19 ~~Public Works Director reviews and approves the location and design of the facilities.~~
20 ~~(g4) Structures and installations that, which are dependent upon the floodway, may be~~
21 ~~located in the floodway if the development proposal is approved by all agencies with~~
22 ~~jurisdiction. Such structures include, but are not limited to:~~
23 ~~(a) Dams or diversions for water supply, flood control, hydroelectric production,~~
24 ~~irrigation, or fisheries enhancement;~~
25 ~~(b) Flood damage reduction facilities, such as levees and pumping stations;~~
26 ~~(c) Stream bank stabilization structures where no feasible alternative exists for~~
27 ~~protecting public or private property;~~
28 ~~(d) Storm water conveyance facilities subject to the development standards for~~
29 ~~streams and wetlands and the City's adopted surface water design manual;~~
30 ~~(e) Boat launches and related recreation structures;~~
31 ~~(f) Bridge piers and abutments; and~~
32 ~~(g) Other fisheries enhancement or stream restoration projects.~~

Commented [SC90]: What was this requirement intended for?

Commented [SC91]: Removed., as it is not allowed per section (330)(11)

- 33
34 ~~21.24.260 FEMA floodway – Development standards and permitted alterations.~~
35 ~~(1) The requirements which apply to the zero-rise floodway shall also apply to the FEMA~~
36 ~~floodway. The more restrictive requirements shall apply where there is a conflict.~~
37 ~~(2) A development proposal including, but not limited to, new or reconstructed structures shall~~
38 ~~not cause any increase in the base flood elevation.~~
39 ~~(3) New residential or nonresidential structures are prohibited within the FEMA floodway.~~
40 ~~(4) Substantial improvements of existing residential structures in the FEMA floodway,~~
41 ~~meeting the requirements of WAC 173.158.070, as amended, are presumed to~~
42 ~~produce no increase in base flood elevation and shall not require a special study to~~
43 ~~establish this fact.~~

Commented [SC92]: Incorporated into 21.24.370

- 44 ~~21.24.260 Flood hazard areas – Certification by engineer or surveyor.~~
45 ~~(1) For all new structures or substantial improvements in a flood hazard area, the applicant shall~~
46 ~~provide certification by a professional civil engineer or land surveyor licensed by the State of~~
47 ~~Washington of:~~
48 ~~(a) The actual as-built elevation of the lowest floor, including basement; and~~
49 ~~(b) The actual as-built elevation to which the structure is flood-proofed, if applicable.~~
50 ~~(2) The engineer or surveyor shall indicate if the structure has a basement.~~

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~~(3) The Building Official shall maintain the certifications required by this section for public inspection.~~

Commented [SC93]: Moved to 21.24.360

21.24.380 Frequently flooded areas – Critical areas report additional requirements.

(1) In addition to the general critical report requirements of WMC 21.24.110, critical areas reports for frequently flooded areas shall include a flood hazard assessment and shall include the following information:

(a) Prepared by a Qualified Professional. The critical areas report shall be prepared by a qualified professional who is a hydrologist or engineer licensed in the State of Washington. The qualified professional shall have a minimum of five years of experience in the field and experience in preparing flood hazard assessments.

(b) Site Areas. The following areas shall be addressed:

(i) The site area of the proposed activity;

(ii) All areas of a special flood hazard, or other flood area as indicated in the flood insurance maps within 200 feet of the project area; and

(iii) All other flood areas indicated on the flood insurance maps within 200 feet of the project area.

(c) Watercourse Alteration. Alteration of natural watercourses shall be avoided, if feasible. If unavoidable, a critical area report shall include:

(i) A description of and plan showing the extent to which a watercourse will be altered or relocated as a result of proposal;

(ii) A maintenance program that provides maintenance practices for the altered or relocated portion of the watercourse to ensure that the flood carrying capacity is not diminished; and

(iii) Information describing and documenting how the proposed watercourse alteration complies with the requirements of WMC 21.24.400 through 21.24.440, the adopted Shoreline Master Program, and other applicable state or federal permit requirements.

(d) Habitat Impact Assessment. A habitat impact assessment is required for activities that meet one of the following: repair and remodel of existing structures or facilities; additions less than 10 percent of the existing footprint; restoration or enhancement of natural function; or development of recreational facilities. A habitat assessment shall be one of the following:

(i) A Biological Evaluation or Biological Assessment developed in accordance with 50 C.F.R. § 402.12;

(ii) Documentation that the activity fits within Section 4(d) of the Endangered Species Act;

(iii) Documentation that the activity fits within a Habitat Conservation Plan approved pursuant to Section 10 of the Endangered Species Act, where such assessment has been prepared and made available; or

(iv) A habitat impact assessment prepared in accordance with the current adopted FEMA Regional Guidance for Floodplain Habitat Assessment and Mitigation, FEMA Region X. The assessment shall determine if the project would adversely affect:

(A) Species that are federal, state or local listed as threatened or endangered;

(B) The primary constituent elements for critical habitat, when designated, including but not limited to water quality, water quantity, flood volumes, flood velocities, spawning substrate, and/or floodplain refugia for listed salmonids;

(C) Essential fish habitat designated by the National Marine Fisheries Service;

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- (D) Fish and wildlife habitat conservation areas; and
- (E) Other protected areas and elements necessary for species conservation.

21.24.370 Streams—Designation and rating.

Streams are water bodies with a defined bed and banks and demonstrable flow of water.

Streams shall be designated Type 1, Type 2, Type 3 and Type 4 according to the following criteria:

- (1) Type 1 streams are those streams identified as "Shorelines of the State" under Chapter 90.58 RCW or supporting significant anadromous salmonid use, including the Sammamish River and Little Bear Creek.
- (2) Type 2 streams are those that have perennial (year-round) or intermittent (seasonal) flow and are used by salmonids.
- (3) Type 3 streams are those that have perennial or intermittent flow and are used by fish other than salmonids.
- (4) Type 4 streams are those natural streams with perennial or intermittent flow that are not used by fish.

21.24.380 Streams—Development standards.

A development proposal on a site containing a stream shall meet the following requirements:

- (1) The following standard buffers shall be established from the ordinary high water mark or from the top of the bank if the ordinary high water mark cannot be identified:

Stream Type	Standard Buffer Width	Reduced Buffer Width with Enhancement
1	150 feet	115 feet [*]
2	115 feet	100 feet
3	75 feet	60 feet
4	60 feet	35 feet

Commented [SC94]: Incorporated into Fish and Wildlife section

*A 100-foot buffer may be allowed by the Development Services Director when a special study (based on BAS) determines that functions achieved in 100 feet are equal to the functions achieved in 115 feet for the site in question.

(a) The standard buffer width will be established unless the existing stream buffer is significantly degraded. If the existing stream buffer is significantly degraded, the applicant may use the reduced buffer as referenced in subsection (1) of this section as long as enhancement measures are implemented to provide a net improvement in overall stream and buffer function and value as determined by a qualified biologist. Enhancement measures shall be conducted in accordance with a plan approved by the Development Services Director.

(b) The Development Services Director may allow further decreases to buffer widths on streams designated as "urban" in accordance with the recommendations of a qualified professional biologist and the best available science on a case-by-case basis. A reduced buffer must be sufficient to protect stream functions and values based on site-specific characteristics and must include enhancement measures implemented to provide a net improvement in overall stream and buffer function and value. Stream enhancement measures may be required on-site and/or off-site to improve overall stream function. No buffer shall be reduced on a stream designated as "urban" to less than 50 feet wide unless the stream is not used by fish whereas the minimum buffer will be 35 feet. Streams designated as "urban" are those streams, which meet all of the following criteria:

- (i) Streams other than Type 1 streams according to the City of Woodinville classification system;

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- ~~(ii) Streams with degraded channel conditions (i.e., presence of piping, sedimentation, channelization, etc.);~~
- ~~(iii) Streams with buffers that are currently degraded or developed; and~~
- ~~(iv) Streams within sub-basins where restoration opportunities are limited.~~
- ~~(c) Any stream relocated because of a permitted alteration shall have the minimum buffer required for the stream class involved.~~
- ~~(d) The Development Services Director shall require increased buffer widths in accordance with the recommendations of a qualified professional biologist and the best available science on a case-by-case basis when a larger buffer is necessary to protect stream functions and values based on site-specific characteristics. This determination shall be based on one or more of the following criteria:~~
 - ~~(i) A larger buffer is needed to protect other critical areas;~~
 - ~~(ii) The buffer or adjacent uplands has a slope greater than 30 percent or is susceptible to erosion and standard erosion control measures will not prevent adverse impacts to the stream; and~~
 - ~~(e) Any stream adjoined by a riparian wetland or other contiguous critical area shall have the buffer required for the stream class involved or the buffer which applies to the wetland or other sensitive area, whichever is greater;~~
- ~~(2) The use of hazardous substances in the stream corridor and its buffer is prohibited; and~~
- ~~(3) The use of pesticides and fertilizers in the stream corridor and its buffer shall be restricted by type and seasonal use under the discretion of the Development Services Director.~~
- ~~(4) The livestock restrictions in WMC 21.24.330 shall also apply to Type 1 and 2 streams and their buffers.~~

21.24.410400 Fish and wildlife habitat conservation areas – Designation.

(1) Definition. Fish and wildlife habitat conservation areas are those habitat areas that meet any of the following criteria listed below. 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.

(a) Documented presence of species listed by the Federal Government or the State of Washington as endangered or threatened; or

(b) Heron rookeries or active nesting trees; or

(c) Class 1 wetlands and buffers as defined in WMC 21.24.310; or

(d) Type 1 streams and buffers as defined in WMC 21.24.350; or

(a) Areas with Which State or Federally Designated Endangered, Threatened, and Sensitive Species Have a Primary Association.

(i) Federally designated endangered and threatened species are those fish and wildlife species identified by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service that are in danger of extinction or threatened to become endangered. The U.S. Fish and Wildlife Service and the National Marine Fisheries Service should be consulted for current listing status.

(ii) State designated endangered, threatened, and sensitive species are those fish and wildlife species native to the state of Washington identified by the Washington Department of Fish and Wildlife (WDFW), that are in danger of extinction, threatened to become endangered, vulnerable, or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats. The Washington Department of Fish and Wildlife should be consulted for current listing status.

Commented [SC95]: These habitats are still designated as Fish and Wildlife Habitat, they are elaborated below.

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(b) State Priority Habitat and Species. State priority habitats and areas associated with state priority species are considered priorities for conservation and management. Priority species require protective measures for their perpetuation due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance. Priority habitats are those habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element. Priority habitats and species are identified by the Washington Department of Fish and Wildlife.

(c) Habitat and Species of Local Importance. Habitats and species of local importance are those identified by the City of Woodinville that due to their population status, or sensitivity to habitat manipulation, warrant protection.

(i) The following species are designated as species of local importance:

Table 21.24.400(c)(i) Species of Local Importance

Common Name	Scientific Name
Bald Eagle	<i>Haliaeetus leucocephalus</i>
Peregrine Falcon	<i>Falco peregrines</i>
Common loon	<i>gavia immer</i>
Pileated woodpecker	<i>Dryocopus pileatus</i>
Vaux's swift	<i>Chaetura vauxi</i>
Purple martin	<i>Progne subis</i>
Western grebe	<i>Aechmophorus occidentalis</i>
Great blue heron	<i>Ardea herodias</i>
Green heron	<i>butorides striatus</i>
Osprey	<i>Pandion haliaetus</i>
Western big-eared bat	<i>Plecotus townsendii</i>
Keen's myotis	<i>Myotis keenii</i>
Long-eared myotis	<i>Myotis evotis</i>
Oregon spotted frog	<i>Rana pretiosa</i>
Western pond turtle	<i>Clemmys marmorata</i>
Bull trout	<i>Salvelinus confluentus</i>
Chinook salmon	<i>Oncorhynchus tshawyscha</i>
Coho salmon	<i>Oncorhynchus kisutch</i>
Sockeye salmon	<i>Oncorhynchus nerka</i>
River lamprey	<i>Lampetra ayresi</i>

Commented [SC96]: This list is based off the Gap Analysis. The list includes species in a federal status, priority species and those in a state status (monitor, sensitive, candidate, threatened and endangered). An addition of sockeye salmon, which was not included in the Gap Analysis, is included here.

(ii) Nominations for habitats or species of local importance shall be processed pursuant to Chapter 17.07 WMC. Nominations for habitats or species of local importance shall demonstrate the following:

- (A) Habitat or species rarity or vulnerability to rarity, as evidenced by restricted, small, or declining species population and habitats or community loss or degradation;
- (B) The need for protection, maintenance, and/or restoration of the nominated habitat to ensure the long-term survival of a species;
- (C) If applicable, the ability of the site to maintain connectivity between habitat areas or to contribute significantly to regional biodiversity as evidenced by species use, richness, abundance, and/or rarity;

Commented [SC97]: Adding language regarding nominating other species should be included in the code to allow for future additions to the list. Other jurisdictions treat nominations as a Type V, where recommended by PC and heard by CC.

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(D) Why special protection is needed and how existing county, state and federal programs and regulations do not provide adequate protection; and

(E) Any proposed management strategies for the affected species or habitat supported by best available science.

(d) Streams and Watercourses. Streams shall be classified using the current approved version of the State Water Typing System pursuant to WAC 222-16-030 and WAC 222-16-031. Streams meeting the designation criteria below and all associated riparian habitat areas, identified as stream buffers in this chapter, are subject to the provisions of this chapter.

Table 21.24.400(1)(d) Stream Classifications

<u>Classification</u>	<u>Brief Description</u>	<u>Full Description</u>
<u>Type S</u>	<u>Shoreline of the State</u>	All waters, within their bank-full width, as inventoried as "shorelines of the state" under chapter 90.58 RCW and the rules promulgated pursuant to chapter 90.58 RCW including periodically inundated areas of their associated wetlands. Within the City of Woodinville, the Sammamish River and Little Bear Creek are designated as Type S streams.
<u>Type F</u>	<u>Fish bearing stream (perennial or seasonal)</u>	Segments of natural waters other than Type S Waters, which are within the bankfull widths of defined channels and periodically inundated areas of their associated wetlands, or within lakes, ponds, or impoundments having a surface area of 0.5 acre or greater at seasonal low water and which in any case contain fish habitat or are described by one of the following four categories: (a) Waters, which are diverted for domestic use by more than 10 residential or camping units or by a public accommodation facility licensed to serve more than 10 persons, where such diversion is determined by the department to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type F Water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by 50 percent, whichever is less; (b) Waters, which are diverted for use by federal, state, tribal or private fish hatcheries. Such waters shall be considered Type F Water upstream from the point of diversion for 1,500 feet, including tributaries if highly significant for protection of downstream water quality. The department may allow additional harvest beyond the requirements of Type F Water designation provided the department determines after a landowner-requested on-site assessment by the department

Commented [SC98]: 5/20/15: Updated to reflect State's existing and proposed rating system

Commented [SC99]: The streams section was eliminated and placed under the Fish and Wildlife Habitat section. This is consistent with how most jurisdictions approach these critical areas. These two critical areas have significant overlap in requirements.

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Classification	Brief Description	Full Description
		<p><u>of fish and wildlife, department of ecology, the affected tribes and interested parties that:</u></p> <p><u>(i) The management practices proposed by the landowner will adequately protect water quality for the fish hatchery; and</u></p> <p><u>(ii) Such additional harvest meets the requirements of the water type designation that would apply in the absence of the hatchery.</u></p> <p><u>(c) Waters, which are within a federal, state, local, or private campground having more than 10 camping units; provided, that the water shall not be considered to enter a campground until it reaches the boundary of the park lands available for public use and comes within 100 feet of a camping unit, trail or other park improvement;</u></p> <p><u>(d) Riverine ponds, wall-based channels, and other channel features that are used by fish for off-channel habitat. These areas are critical to the maintenance of optimum survival of fish. This habitat shall be identified based on the following criteria:</u></p> <p><u>(i) The site must be connected to a fish habitat stream and accessible during some period of the year; and</u></p> <p><u>(ii) The off-channel water must be accessible to fish.</u></p>
<u>Type Np</u>	<u>Non-fish bearing perennial stream</u>	<u>All segments of natural waters within the bankfull width of defined channels that are perennial nonfish habitat streams. Perennial streams are flowing waters that do not go dry any time of a year of normal rainfall and include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow.</u>
<u>Type Ns</u>	<u>Non-fish bearing seasonal stream</u>	<u>All segments of natural waters within the bankfull width of the defined channels that are not Type S, F, or Np Waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np Water. Ns Waters must be physically connected by an aboveground channel system to Type S, F, or Np Waters.</u>

Commented [AK100]: Do we need this?

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(e) Naturally Occurring Ponds Under 20 Acres. Naturally occurring ponds are those ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat, including those artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds. Naturally occurring ponds do not include ponds deliberately designed and created from dry sites, such as canals, detention facilities.

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wastewater treatment facilities, farm ponds, temporary construction ponds, and landscape amenities, unless such artificial ponds were intentionally created for mitigation.

(f) Waters of the State. Waters of the state include lakes, ponds, streams, inland waters, underground waters, and all other surface waters and watercourses within the jurisdiction of the State of Washington, as classified in WAC 222-16-031.

(g) Areas of Rare Plant Species and High Quality Ecosystems. Areas of rare plant species and high quality ecosystems are identified by the Washington State Department of Natural Resources through the Natural Heritage Program.

(he) Native growth protection easements/ native growth protection areas (NGPE/NGPA) and other areas designated by the City, or

~~(f) Sites containing a bald eagle territory as mapped by WDFW. Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules (Chapter 232-12-292-WAC).~~

(2) Fish and wildlife habitat conservation areas are usually found in conjunction with another critical area listed in this chapter. The critical area report shall address all criteria for each critical area specifically.

~~All areas within the City meeting one or more of these criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this title.~~

Commented [SC101]: Native growth protection easements, native growth protection areas, critical area tracts, etc. have been retitled to "Native growth protection areas" in 21.24.150. This encompasses tracts and easements, status (critical area or forested areas).

Commented [SC102]: Covered under Subsections A, B, C, and listed below

Commented [SC103]: Listed above.

21.24.420 Fish and wildlife conservation area report requirements.

Requirements for critical areas reports for fish and wildlife habitat conservation areas are available at the City Hall Planning Department.

21.24.410 Fish and wildlife habitat conservation areas – Development standards.

(1) Standard Buffers. Activities and uses shall be prohibited within fish and wildlife habitat conservation areas and their buffers, except as provided for in this chapter.

(a) Habitat Conservation Area Buffers. The City shall require the establishment of buffer areas for activities adjacent to habitat conservation areas, when needed to protect habitat conservation areas. Buffers shall consist of an undisturbed area of native vegetation or areas identified for restoration established to protect the integrity, functions, and values of the affected habitat. Required buffer widths shall reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby, and shall be consistent with the management recommendations issued by the Washington Department of Fish and Wildlife.

(b) Stream Buffers. Stream buffers shall be established for habitats that include aquatic and terrestrial ecosystems that mutually benefit each other and that are buffers located adjacent to rivers, perennial or intermittent streams, seeps, and springs.

(i) Stream Buffer Widths. The stream buffers shall be determined according to the stream type shown in Table 21.24.410(1)(b)(i). Widths shall be measured outward in each direction on the horizontal plane from the ordinary high water mark or from the top of the bank if the ordinary high water mark cannot be identified.

Commented [SC104]: The existing critical areas regulations uses "stream buffers", whereas current practices use "riparian habitat area" to mark the same area

Table 21.24.410(1)(b)(i) – Stream Buffer Widths

Stream Type	Standard Area Width
S	Buffers established per Woodinville Shoreline Master Program (SMP)

Commented [SC105]: 5/20/15: Original recommendation was to change this to 175 feet, now reduced to 150 feet. This is intended to be consistent with the SMP shoreline designations.

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Stream Type	Standard Area Width
F	150 feet
Np	75 feet
Ns	50 feet

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- (ii) Measurement. The outer edge of the stream buffer shall be delineated through a survey and field investigation by a qualified professional.
 - (iii) Increased Widths. An increased buffer shall be required in accordance with the recommendations of a qualified professional and the best available science in the following circumstances:
 - (A) Where the standard width is insufficient to prevent habitat degradation and to protect the structure and functions of the habitat area;
 - (B) Where the frequently flooded area exceeds the standard stream buffer, the width shall extend to the outer edge of the frequently flooded area;
 - (C) Where the channel migration zone exceeds the standard stream buffer, the width shall extend to the outer edge of the channel migration zone; or
 - (D) The habitat area is in an area of high blowdown potential, the stream buffer shall be expanded an additional 50 feet on the windward side.
 - (iv) Reduced Buffers. Stream buffers may be reduced when width-reduction impacts are mitigated, resulting in equal or greater protection of the ecological riparian functions. A plan for mitigating buffer-reduction impacts must be prepared using selected incentive-based mitigation options from the list below. The following incentive options for reducing standard area widths shall be considered cumulative up to a maximum reduction of 33 percent of the standard area width.

Table 21.24.400(1)(b)(iv) Stream Buffer Width Reduction Options

Incentive Option	Reduction Allowed
(a) <u>Removal of impervious surfaces</u>	(i) Up to 5 percent reduction in standard buffer width if impervious surfaces within the to-be-remaining buffer area are reduced by at least 50 percent; or (ii) Up to 10 percent reduction in standard buffer width if the to-be-remaining buffer area is presently more than 50 percent impervious and all of it is to be removed.
(b) <u>Installation of biofiltration/infiltration mechanisms</u>	(i) Up to 10 percent reduction in standard buffer width for the installation of bioswales, created and/or enhanced wetlands, or ponds supplemental to existing storm drainage and water quality requirements.
(c) <u>Removal of invasive, nonnative vegetation</u>	(i) Up to 5 percent reduction in standard buffer width for the removal and extended monitoring and continued-removal maintenance of relatively dense stands of invasive, nonnative vegetation from

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	<u>significant portions of the remaining buffer area.</u>
<u>(d) In-stream habitat enhancement</u>	<u>(i) Up to 5 percent reduction in standard buffer width for placement of large woody debris, bioengineered bank stabilization, or culvert removal; or</u> <u>(ii) Up to 15 percent reduction in standard buffer width for improving fish passage and/or creation of side channel or backwater areas</u>
<u>(e) Use of pervious material for driveway/road construction;</u>	<u>(i) Up to 5 percent reduction in standard buffer width</u>
<u>(f) Restoration of on-site buffer and habitat areas, or restoration of off-site buffer and habitat areas within the same sub-basin of the impacted stream if no on-site restoration is possible</u>	<u>(i) Up to 10 percent reduction in standard buffer width if restoration area is at a 2:1 ratio or greater; or</u> <u>(ii) Up to 20 percent reduction in standard buffer width if restoration area is at a 4:1 ratio or greater.</u>
<u>(g) Removal of significant refuse or sources of toxic material</u>	<u>(i) Up to 5 percent reduction in standard buffer width.</u>
<u>(h) Providing a ten year monitoring and maintenance plan</u>	<u>(i) Up to 5 percent reduction in standard buffer width.</u>

(v) Urban Stream Designation. The City may approve further decreases to buffer widths on streams designated as "urban" in accordance with the recommendations of a qualified professional biologist and the best available science on a case-by-case basis. Stream enhancement measures shall be required to improve overall stream function. The City may designate a stream as "urban" if all of the following criteria are met:

- (A) The stream is not a Type S stream;
- (B) No buffer shall be reduced on a stream designated as "urban" to less than 50 feet wide unless the stream is not used by fish whereas the minimum buffer will be 35 feet;
- (C) The stream has degraded channel conditions (e.g., presence of piping, sedimentation, channelization, etc.);
- (D) The stream has buffers that are currently degraded or developed;
- (E) The portion of the buffer affecting the subject property or development is located within the CBD, GB or I zones;
- (F) Stream enhancement shall be sufficient to protect stream buffer functions and values based on site-specific characteristics and must

Commented [SC106]: 5/20/15: Based on public comment, the urban stream designation was included in this draft. Some minor modifications were made so that the criteria is more clear

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1 include enhancement measures implemented to provide a net
2 improvement in overall stream and buffer function and value

3 (2) Buffer Averaging. The minimum buffer width may be averaged in accordance with an
4 approved critical areas report using the best available science and any management
5 recommendations issued by the Washington Department of Fish and Wildlife. Averaging of
6 buffer widths may only be allowed if all of the following criteria are met;

7 (a) It will provide additional protection to the fish and wildlife habitat conservation area
8 and result in a net improvement of the habitat functions and values;

9 (b) It will not adversely affect salmonid habitat;

10 (c) The buffer width is not reduced by more than 25 percent of the standard width in any
11 one location;

12 (d) It will provide additional natural resource protection, such as buffer enhancement;

13 (e) The total area contained in the buffer area after averaging is no less than that which
14 would be contained within the standard buffer;

15 (f) The proposal includes revegetation and restoration of the averaged buffer using
16 native plants; and

17 (g) Stream buffer reduction and urban stream designation in WMC 21.24.410(1)(b) is not
18 used in conjunction with buffer averaging.

19 (3) Protection. Whenever activities are proposed in or adjacent to a habitat conservation area
20 with which state or federally endangered or threatened species have a primary association,
21 such area shall be protected through the application of measures in accordance with a
22 critical area report and approved by the city and guidance provided by the appropriate state
23 and federal agencies.

24 (4) Special Conditions. Buffers shall also be subject to modifications under the following site
25 conditions:

26 (a) Geologically Sensitive Areas. The buffer or abutting uplands include a geologically
27 sensitive area. The buffer width shall be the greater of either the required buffer or
28 twenty-five feet beyond the top of the hazard area;

29 (b) Wetlands. Any fish and wildlife habitat conservation area adjoined by a riparian
30 wetland shall have the buffer required for the habitat conservation area involved or
31 the buffer which applies to the wetland, whichever is greater; or

32 (c) Other Critical Areas. If the habitat conservation area buffers are located adjacent to
33 other critical areas, a larger buffer shall be required to protect other critical areas in
34 accordance to the recommendations of a qualified professional and best available
35 science.

36 (5) Signage and Fencing. Temporary and permanent signs and fencing shall be installed along
37 the outer boundary of the fish and wildlife habitat conservation area buffer in accordance
38 with WMC 21.24.130.

39 (6) Livestock. Property owners shall implement a farm management plan or standards to protect
40 and enhance water quality pursuant to Chapter 21.30 WMC.

41 ~~Livestock. Property owners shall implement a farm management plan or standards to protect
42 and enhance wetland water quality pursuant to Chapter 21.30 WMC.~~

43 (7) Seasonal Restrictions. When a species is more susceptible to adverse impacts during
44 specific periods of the year, as determined by the Washington State Department of Fish and
45 Wildlife, seasonal restrictions may apply. Larger buffers may be required and activities may be
46 further restricted during the specified season.
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Commented [SC107]: 5/20/15: Updated to include the urban stream designation

Commented [SC108]: May want to consider moving this to permitted activities section

Commented [SC109]: Moved to 21.24.410(1)

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1 **21.24.440420 Fish and wildlife habitat conservation areas – Performance standards for**
2 **specific habitats. Permitted activities.**

3 (1) Approval of Activities. The City shall condition approvals of activities allowed within or
4 adjacent to a habitat conservation area or its buffers, as necessary to minimize or mitigate
5 any potential adverse impacts. Conditions shall be based on the best available science and
6 may include, but are not limited to, the following:

- 7 (a) Establishment of buffer zones;
- 8 (b) Preservation of critically important vegetation and/or habitat features such as snags
9 and downed wood;
- 10 (c) Limitation of access to the habitat area, including fencing to deter unauthorized
11 access;
- 12 (d) Seasonal restriction of construction activities;
- 13 (e) Establishment of a duration and timetable for periodic review of mitigation activities;
14 and
- 15 (f) Requirement of a performance bond, when necessary, to ensure completion and
16 success of proposed mitigation.

17 (2) Hazardous substances. The use of hazardous substances, pesticides and fertilizers, in the
18 stream and its buffer may be prohibited.

19 (3) Non-native Species. The introduction of any plant, wildlife, or fish species not indigenous to
20 the region shall be prohibited from fish and wildlife habitat conservation areas unless
21 authorized by a state or federal permit or approval.

22 (4) Alterations. Alterations to fish and wildlife habitat conservation areas and their buffers,
23 except for aquatic environments, may be allowed in addition to those established in WMC
24 21.24.040 and WMC 21.24.050. Where applicable, activities and uses shall also be subject
25 to the Woodinville Shoreline Master Program (SMP).

- 26 (a) Utilities. Utilities may be allowed within fish and wildlife habitat conservation areas if:
27 (i) No practical alternative location is available;
28 (ii) ~~The utility corridor meets any additional requirements set forth in~~
29 ~~administrative rules including, but not limited to, requirements for installation,~~
30 ~~replacement of vegetation and maintenance;~~
31 (iii) The requirements for sewer utility corridors in WMC 21.24.320 shall also
32 apply;
33 (iiiiv) Joint use of an approved utility corridor by more than one utility may be
34 allowed; and
35 (iv) The utility corridor meets the provisions of Policies U-1.5 and U-1.8 of the
36 City of Woodinville Comprehensive Plan.

Commented [SC110]: Moved from the former streams section

37 (b) Surface Water Management Activities and Facilities. The following may be allowed
38 within fish and wildlife habitat conservation areas as follows:

- 39 (i) Surface water discharge to a stream from a detention facility, presettlement
40 pond or other surface water management activity or facility may be allowed if
41 the discharge is in compliance with the City's adopted surface water design
42 manual;
- 43 (ii) Storm Water Management Facilities. Grass-lined swales and dispersal
44 trenches may be located in the outer 25 percent of the buffer area. All other
45 surface water management facilities are not allowed within the buffer area.

46 (c) Trails. Public and private trails, and/or visual access to the habitat conservation area
47 may be allowed if

- 48 (i) Trail surface shall be made of pervious materials, except that public multi-
49 purpose trails may be made of impervious materials if they meet all other
50 requirements including water quality and quantity; and

Commented [SC111]: Does not really accomplish anything – they are subject to all of this chapter. Not typical to call out this requirement for just one type of alteration

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(ii) ~~Buffers shall be expanded, where possible, equal to the width of the trail corridor including disturbed areas.~~

Commented [SC112]: Same language as existing, moved up several pages

(5) The following ~~development standards~~ shall apply for areas with endangered or threatened species:

(a) No development shall be allowed ~~without prior approval~~ within a fish and wildlife habitat conservation area ~~or its buffer~~ with which ~~State~~ or ~~Federally~~ endangered ~~or~~, threatened, ~~or sensitive~~ species have a primary association, ~~except that which is provided for by a management plan established by the Washington Department of Fish and Wildlife or applicable state or federal agency.~~

(b)

(i) ~~Whenever activities are proposed abutting a fish and wildlife with which State or Federally endangered or threatened species have a primary association, such a~~ Area shall be protected through the application of protection measures in accordance with a habitat management plan/critical area report prepared by a qualified professional biologist and approved by the Director/City.

(ii) Approval for alteration of land adjacent to the ~~fish and wildlife~~ habitat conservation area or its buffer shall not occur prior to consultation with the Washington State Department of Fish and Wildlife for animal species and the Washington Department of Natural Resources for plant species and other appropriate Federal/federal or state agency, ~~as applicable~~.

(2b) Bald Eagle Habitat. Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules (WAC 232-12-292). Whenever activities are proposed adjacent to a verified nest territory or communal roost, a habitat management plan/critical areas report shall be developed by a qualified professional.

(i) Activities are adjacent to bald eagle sites when they are within 800 feet, or within a quarter-mile (2,640 feet) and in a shoreline foraging area. The Director/City shall verify the location of eagle management areas for each proposed activity.

(ii) Approval of the activity shall not occur prior to approval of ~~the a~~ habitat management plan by the ~~Development Services Director and~~ Washington Department of Fish and Wildlife.

(3c) Great blue-Blue Heron Rookeries:

(a) A buffer equal to the distance of 820 feet radius measured from the outermost nest tree in the rookery will be established around an active rookery. This area will be maintained in native vegetation.

(b) Between January 1st and July 31st, no clearing, grading or land disturbing activity shall be allowed within 900 feet of the rookery, unless approved by the Director/City and Washington Department of Fish and Wildlife/WDFW.

(c) Approval of all activities requiring permits shall not occur within 900 feet of a heron rookery prior to the approval of a habitat management plan/critical areas report by the Director/City and Washington Department of Fish and Wildlife/WDFW.

(4d) Anadromous Fish.

(a) All activities, uses, and alterations proposed to be located in 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, ~~adhering to~~ the following standards:

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- (iA) Activities shall be timed to occur only during the allowable work window as designated by the Washington State Department of Fish and Wildlife for the applicable species;
- (iiB) An alternative alignment or location for the activity is not ~~physically practicable~~ ~~feasible~~;
- (iiiC) The activity is designed so that it will not degrade the functions or values of the fish habitat or other critical areas; ~~and~~
- (D) ~~Shoreline erosion control measures shall be designed to use bioengineering methods or soft armoring techniques, according to an approved critical area report; and~~
- (ivE) Any impacts to the functions or values of the habitat conservation area are mitigated in accordance with an approved ~~habitat management plan~~ ~~critical area report~~.

- (bii) Structures that prevent the migration of salmonids shall not be allowed in the portion of water bodies currently or historically used by anadromous fish. Fish bypass facilities shall be provided that allow the upstream migration of adult fish and shall prevent fry and juveniles migrating downstream from being trapped or harmed.
- (ciii) Fills, when authorized pursuant to the City of Woodinville's Shoreline Management Master Program, shall not adversely impact anadromous fish or their habitat or shall mitigate any unavoidable impacts, and shall only be allowed for a water-dependent use.

21.24.390 Streams — Permitted alterations.

(6) Alterations to streams and ~~their~~ buffers may be allowed ~~only in addition to those established in WMC 21.24.420(2) and the Woodinville Shoreline Master Program for Type S streams,~~ as follows:

- ~~(1) Alterations may only be permitted if based upon a special study.~~
- ~~(2) Only plants and wildlife indigenous to the Puget Sound area shall be introduced to any stream or buffer unless authorized by a State or Federal permit or approval.~~

- (3) Utilities may be allowed in stream buffers if:
 - ~~(a) No practical alternative location is available;~~
 - ~~(b) The utility corridor meets any additional requirements set forth in administrative rules including, but not limited to, requirements for installation, replacement of vegetation and maintenance;~~
 - ~~(c) The requirements for sewer utility corridors in WMC 21.24.330 shall also apply to streams;~~
 - ~~(d) Joint use of an approved utility corridor by more than one utility may be allowed; and~~
 - ~~(e) The utility corridor meets the provisions of Policy U-1.12 of the City of Woodinville Comprehensive Plan.~~

- (4) The following surface water management activities and facilities may be allowed in stream buffers as follows:
 - ~~(a) Surface water discharge to a stream from a detention facility, presettlement pond or other surface water management activity or facility may be allowed if the discharge is in compliance with the King County Surface Water Design Manual;~~
 - ~~(b) Storm Water Management Facilities. Grass-lined swales and dispersal trenches may be located in the outer 25 percent of the buffer area. All other surface water management facilities are not allowed within the buffer area.~~

Commented [SC113]: Language from this section was moved from existing 21.24.390 (streams)

Commented [SC114]: 5/20/15: Clarified to match SMP

Commented [SC115]: Moved to subsection 4, above

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(5) Public and private trails, or visual access to the stream, is encouraged in stream buffers provided:

- (a) Trail surface shall not be made of impervious materials, except that public multi-purpose trails may be made of impervious materials if they meet all other requirements including water quality; and
- (b) Buffers shall be expanded, where possible, equal to the width of the trail corridor including disturbed areas.

Commented [SC116]: Moved up several pages

(6) Stream crossings may be allowed if:

(a) Existing Roads. Widening of existing roads may be allowed on the outer 25 percent of the buffer area if:

- (i) There is no practical alternative access with less environmental adverse impact;
- (ii) The proposal minimizes impact to the stream and provide mitigation for unavoidable impacts through restoration, enhancement, or replacement of disturbed areas;
- (iii) The proposal does not change the overall stream hydrology;
- (iv) The proposal does not diminish the flood storage capacity of the stream;
- (v) The proposal are constructed during summer low water periods; and
- (vi) The proposal are the minimum size or length necessary to provide access; and
- (vii) Work affecting Type S streams shall meet requirements of the Woodinville Shoreline Master Program.

Commented [SC117]: 5/20/15: Added for streams to allow for alterations for existing roads.

(b) Stream Crossings. The use of existing crossings, including but not limited to utility corridors, road and railroad rights-of-way across streams or buffers for public or private trails is preferred to new crossings. Stream crossings may be allowed if:

- (i) All crossings use bridges or other construction techniques in accordance with best management practices, which do not disturb the stream bed or bank, except that bottomless culverts or other appropriate methods demonstrated to provide fisheries protection may be used for Type 2F or 3Np streams if the applicant demonstrates to the satisfaction of the Development Services Director that such methods and their implementation will pose no harm to the stream or inhibit migration of fish;
- (ii) All crossings are constructed during the summer low flow and are timed to avoid stream disturbance during periods when use is critical to resident or anadromous fish including salmonids;
- (iii) Crossings do not occur over salmonid resident or anadromous fish spawning areas unless the Development Services Director determines that no other possible crossing site exists;
- (iv) Bridge piers or abutments are not placed within the FEMA floodway or the ordinary high water mark;
- (v) Crossings do not diminish the flood-carrying capacity of the stream;
- (vi) Underground utility crossings are laterally drilled and located at a depth of four feet below the maximum depth of scour for the base flood predicted by a civil engineer licensed by the State of Washington; and
- (vii) Crossings are minimized and The number of crossings is minimized and consolidated to serve multiple purposes and properties whenever possible.

(b.7) Stream Relocations. Relocations may be allowed subject to the following limitations:

- (a) All stream types Type F, Np and Ns streams as part of a public road project for which a public agency and utility exception is granted pursuant to WMC 21.24.060;

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1 (iib) ~~All stream types~~ Type F, Np and Ns streams for the purpose of enhancing or
2 restoring resources in the stream if:

- 3 (Ai) Appropriate floodplain protection measures are used;
4 (Bii) The relocation occurs on the site, except that relocation off the site
5 may be allowed if the applicant demonstrates that any on-site
6 relocation is impracticable, the applicant provides all necessary
7 easements and waivers from affected property owners and the off-site
8 location is in the same drainage sub-basin as the original stream; and
9 (Ciii) A scientific study/critical area report shows that the relocation is
10 beneficial to fish and wildlife habitat;

11 (iie) Relocations are constructed during the summer low flow and are timed to
12 avoid stream disturbance during periods when use is critical to resident or
13 anadromous fish including salmonids; and

14 (ivd) Streams shall not be relocated solely for development purposes.

15 (8v) Stream relocation pursuant to this section, the applicant shall demonstrate,
16 based on information provided by a civil engineer and a qualified biologist,
17 that:

- 18 (Aa) Equivalent base flood storage volume and function will be
19 maintained;
20 (Bb) No adverse impact to local ground water;
21 (Cc) No increase in velocity;
22 (Dd) No increase in transfer of water;
23 (Ee) No increase in the sediment load;
24 (Ff) Requirements set out in the mitigation plan are met;
25 (Gg) Relocation conforms to other applicable laws; and
26 (Hh) All work will be carried out under the direct supervision of a qualified
27 biologist.

28 (c9) Stream Channel Stabilization. A stream channel may ~~be~~ stabilized if:

29 (ia) Movement of the stream channel threatens existing residential or commercial
30 structures, public facilities or improvements, unique natural resources or the
31 only existing access to property; and

32 (iib) Stabilization is done in compliance with the requirements of WMC ~~21.24.240~~
33 ~~through 21.24.260~~ 21.24.350 through 21.24.380 ~~and administrative rules~~
34 ~~promulgated pursuant to this chapter;~~ and

35 (iii) Soft-bank stabilization techniques are utilized unless the applicant
36 demonstrates that soft-bank techniques are not a reasonable alternative due
37 to site-specific soil, geologic and/or hydrologic conditions.

38 (d40) Enhancement. Stream enhancement not associated with any other development
39 proposal may be allowed if accomplished according to a plan for its design,
40 implementation, maintenance, and monitoring prepared by a civil engineer and a
41 qualified biologist and carried out under the direct supervision of a qualified biologist
42 pursuant to provisions contained in administrative rules.

43 (e14) Stream Restoration. A minor stream restoration project for fish habitat
44 enhancement may be allowed if the restoration is:

45 (ia) ~~Accomplished~~ Sponsored or approved by a public agency with a mandate to
46 do such work;

47 (iib) ~~Not~~ Unassociated with mitigation of a specific development proposal;

48 (iie) Limited to placement of rock weirs, log controls, spawning gravel, culvert
49 replacement and other specific ~~salmonid~~ salmonid-habitat improvements for resident
50 and anadromous fish including salmonid;

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- (iv) Involves the use of hand labor and light equipment; and or the use of helicopters and cranes that deliver supplies to the project site, provided, that they have no contact with critical areas or their buffers; and
- (ve) Performed under the direct supervision of a qualified biologist.

21.24.420430 Fish and wildlife habitat conservation area – Critical areas report additional requirements.

(1) In addition to the general critical area report requirements of WMC 21.24.110, Requirements for critical areas reports for fish and wildlife habitat conservation areas must meet the requirements of this section shall include the following information: are available at the City Hall Planning Department.

Commented [SC118]: 5/20/15: This section and the previous section were swapped in the existing code

(a) Prepared by a Qualified Professional. The critical areas report shall be prepared by a wildlife, stream or wetland biologist or scientist. The qualified professional shall have a minimum of five years of experience in the field and experience in preparing reports for fish and wildlife habitat conservation areas.

(b) Areas Addressed in Critical Areas Report. The following areas shall be addressed in a critical areas report for habitat conservation areas:

21.24.430 Fish and wildlife habitat conservation areas – Performance standards.

(1) Habitat Management Plan. A habitat management plan shall be required whenever the priority habitats and species maps or natural heritage program maps maintained by the City, or other information, indicate the presence of areas with which species listed as endangered or threatened under Federal law have a primary association, or which contain heron nests.

(2) All habitat management plans shall be prepared in consultation with the Washington State Department of Fish and Wildlife. Habitat management plans for species listed as endangered or threatened or heron rookeries shall be approved by the Department of Fish and Wildlife.

(3) Habitat Management Plan Content Requirements. Based on the characteristics of the site and information submitted by the applicant, the Director may require that all or a portion of the following be included in a habitat management plan:

(a) A map drawn to scale or survey showing the following information:

(i) All lakes, ponds, streams, and wetlands on, or adjacent to, the subject property, including the name (if named), ordinary high water mark of each, and the stream type or wetland class consistent with this title;

Commented [SC119]: Elaborated below.

(ii) The location and description of the fish and wildlife habitat conservation areas on (i) The project area of the subject property, as well as any potential fish and wildlife proposed activity;

(ii) All habitat conservation areas and recommended buffers within 200 feet of the project area feet of the subject property as shown on maps maintained by the City; and

(iii) The location of any observed evidence of All shoreline areas, floodplains, other critical areas, and related buffers within 200 feet of the project area.

(c) Habitat Assessment. The report shall include an assessment of the presence or absence of potential critical fish or wildlife habitat. A habitat assessment shall include the following information:

(i) Extent of fish and wildlife habitat areas and required buffers;

(ii) Existing habitat area acreage;

(iii) Vegetative, faunal, and hydrologic characteristics;

(iv) Identification of species of local importance, priority species, or endangered, threatened, sensitive, or candidate species that have a primary association with habitat on or adjacent to the project area;

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- 1 (v) Assessment of potential project impacts to the use of the site by a threatened
2 or endangered the species;
3 (b) An analysis of how the proposed development activities will affect the fish and
4 wildlife habitat conservation area and listed species;
5 (c) Provisions to reduce or eliminate the impact of the proposed development
6 activities on any fish and wildlife habitat conservation area and listed species
7 including:
8 (vi) A discussion of any federal, state, or local special management
9 recommendations, including Washington Department of Fish and Wildlife
10 habitat management recommendations, that have been developed for
11 species or habitats located on or adjacent to the project area; and
12 (vii) A detailed discussion of the direct and indirect potential impacts on habitat
13 by the project, including potential impacts to water quality.
14 (d) Proposed Mitigation. If required, a mitigation plan consistent with WMC 21.24.120
15 and WMC 21.24.440. The mitigation plan shall include a written assessment and
16 accompanying maps of the mitigation area, including the following information at a
17 minimum:
18 (i) Prohibition or limitation of development activities within the fish and wildlife
19 habitat conservation area;
20 (ii) Establishment of a buffer around the fish and wildlife habitat conservation
21 area;
22 (iii) Retention of certain vegetation or areas of vegetation critically important to
23 the listed species;
24 (iv) Limitation of access to the fish and wildlife habitat conservation area and
25 buffer;
26 (v) Seasonal restrictions on construction activities on the subject property;
27 (vi) Clustering of development on the subject property is appropriate; and
28 (vii) Preservation or creation of a habitat area for the listed species.
29 ~~(4) Fish and wildlife habitat conservation areas may be altered only if the~~
30 ~~proposed alteration of the habitat or the mitigation proposed does not~~
31 ~~degrade the quantitative and qualitative functions and values of the habitat.~~
32 ~~All new structures and land alterations shall be prohibited within habitat~~
33 ~~conservation areas, except in accordance with this title.~~
34 ~~(5) Introduction of plant, wildlife, or fish species not indigenous to the region into~~
35 ~~a fish and wildlife habitat conservation areas shall be prohibited unless~~
36 ~~authorized by a State or Federal permit or approval.~~
37 ~~(6) Mitigation sites shall be located to achieve contiguous wildlife habitat~~
38 ~~corridors in accordance with a mitigation plan that is part of an approved~~
39 ~~habitat management plan to minimize the isolating effects of development on~~
40 ~~habitat areas. Mitigation of aquatic habitat shall be located within the same~~
41 ~~aquatic ecosystem as the area disturbed.~~
42 ~~(7) Mitigation of alterations to habitat conservation areas shall achieve equivalent~~
43 ~~or greater biologic functions. Mitigation shall address each function affected~~
44 ~~by the alteration in order to achieve functional equivalency or improvement on~~
45 ~~a per function basis.~~
46 ~~(8) Any mitigation for alterations or impacts to a fish and wildlife habitat~~
47 ~~conservation area shall be supported by the best available science.~~
48 ~~(9) Buffers. The Director shall require the establishment of buffer areas for~~
49 ~~activities in, or adjacent to, fish and wildlife habitat conservation areas, when~~
50 ~~needed to protect fish and wildlife habitat conservation areas. Buffers shall be~~
51 ~~established to protect the integrity, functions and values of the affected~~

Commented [SC120]: List is from existing code

Commented [SC121]: Moved to mitigation section in 21.24.440

Commented [SC122]: Moved to 21.24.410(1)

Commented [SC123]: Moved to 21.24.440

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1 habitat. Buffers shall either consist of an undisturbed area of native
2 vegetation, or of areas identified for restoration or enhancement. Required
3 buffer widths shall reflect the sensitivity of the habitat and the type and
4 intensity of human activity proposed to be conducted nearby, and shall be
5 consistent with the management recommendations issued by the Washington
6 State Department of Fish and Wildlife.

7 ~~(10) Seasonal Restrictions. When a species is more susceptible to adverse impacts during~~
8 ~~specific periods of the year, seasonal restrictions, as determined by the Washington State~~
9 ~~Department of Fish and Wildlife, may apply. Larger buffers may be required and activities~~
10 ~~may be further restricted during the specified season.~~

11 ~~(11) Tree Retention. The tree retention provisions of Chapter 21.15 WMC shall apply to the~~
12 ~~protection of fish and wildlife habitat conservation areas.~~

13 ~~(12) Additional information may be required by the Director when appropriate, due to the type of~~
14 ~~habitat or species present or project area conditions.~~

15 (e) Habitat Management. When appropriate due to the type of habitat or species present
16 or the project area conditions, the City may also require a habitat management plan
17 to include:

18 (i) A discussion of ongoing management practices that will protect habitat after
19 the project site has been developed, including proposed monitoring and
20 maintenance programs;

21 (ii) An evaluation by the Washington State Department of Fish and Wildlife, local
22 Native American Indian tribes, or other qualified expert regarding the
23 applicant's analysis and the effectiveness of any proposed mitigating
24 measures or programs, to include any recommendations as appropriate; and

25 (iii) A request for consultation with the Washington Department of Fish and
26 Wildlife, local Native American Indian Tribes or other appropriate agency; and

27 (iv) Detailed surface and subsurface hydrologic features both on and adjacent to
28 the site.

29
30 **21.24.440 Fish and wildlife habitat conservation areas – Mitigation.**

31 (1) General. Mitigation of alterations to habitat conservation areas shall achieve equivalent or
32 greater biologic functions and shall include mitigation for adverse impacts upstream or
33 downstream of the development proposal site as appropriate. Mitigation shall be supported
34 by best available science and address each function affected by the alteration to achieve
35 functional equivalency or improvement on a per function basis. Mitigation should occur in
36 the same sub-drainage basin as the habitat.

37 (2) Sites. Mitigation sites shall be located to achieve contiguous wildlife habitat corridors in
38 accordance with a mitigation plan and habitat management plan to minimize the isolating
39 effects of development on habitat areas. Mitigation of aquatic habitat shall be located within
40 the same aquatic ecosystem as the area disturbed.

41 (3) Restoration. Restoration or mitigation shall be required as part of a development proposal
42 whereby impacts, either direct or indirect, to the stream-habitat conservation area occur.
43 Restoration shall also be required when a stream-habitat conservation area or its buffer is
44 altered in violation of law or without any specific permission or approval by the Development
45 Services Director, City. A mitigation plan for the restoration or mitigation, included as part of
46 the critical area report, shall demonstrate that the:

47 (a) Stream-Habitat conservation area has been degraded and will not be further
48 degraded by the restoration or mitigation activity;

49 (b) Restoration or mitigation will reliably and demonstrably improve the water quality and
50 fish and wildlife habitat of the stream;

Commented [SC124]: Moved to development standards (21.24.430(9))

Commented [SC125]: Not necessary to call out – all of these activities are subject to the tree code.

Commented [SC126]: Located in existing 21.24.400(1)

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(c) Restoration or mitigation will ~~have result in no lasting significant adverse~~ no net loss and no significant adverse impact will occur to on any stream habitat functions; and

(d) ~~On sites where nonnative vegetation was cleared, restoration shall include installation of native vegetation with a density equal to or greater than the predevelopment site conditions; and~~

(e) Restoration or mitigation will assist in stabilizing the stream channel.

~~(42) Stream Restoration and Mitigation. The following minimum requirements shall be met for the All restoration and/or mitigation of impacts to a stream or its buffer projects for streams shall meet the following:~~

Commented [SC127]: Located in existing 21.24.400(2)

(a) All work shall be carried out under the direct supervision of a qualified biologist;

(b) Basin analysis shall be performed to determine hydrologic conditions;

(c) Natural channel dimensions shall be replicated including its depth, width, length and gradient at the original location, and the original horizontal alignment (meander lengths) shall be replaced;

(d) Identical or similar materials shall be used to restore the stream bottom;

(e) Bank and buffer configuration shall be restored to its original condition;

(f) Channel, bank and buffer areas shall be replanted with native vegetation which replicates the original vegetation in species, sizes and densities; and

(g) Pre-existing biologic functions of the stream shall be recreated.

~~(3) Mitigation projects shall be monitored and maintained for a period of five years. A monitoring protocol shall be approved by the Development Services Director and monitoring reports shall be submitted to the Development Services Director as required.~~

~~(4) The requirements in subsection (2) of this section may be modified if the applicant demonstrates to the satisfaction of the Development Services Director that a greater biologic function can otherwise be obtained.~~

~~(56) Monitoring and Maintenance. Mitigation sites shall be monitored and maintain consistent with WMC 21.24.130. Requirements which apply to the restoration of streams in subsection (2) of this section shall also apply to the relocation of streams, unless the applicant demonstrates to the satisfaction of the Development Services Director that a greater biologic function can be obtained by modifying these requirements.~~

Commented [SC128]: Incorporated in WMC 21.24.130, located in existing 21.24.400(3) and (4)

~~(67) Stream Replacement or Enhancement. Replacement or enhancement for approved stream or buffer alterations shall be accomplished in streams and on the site unless the applicant demonstrates to the satisfaction of the Development Services Director that:~~

(a) Enhancement or replacement on the site is not possible or on-site opportunities do not have a high likelihood of success due to development pressures, adjacent land uses, or on-site buffers or connectivity are inadequate;

(b) Off-site location is in the same drainage sub-basin as the original stream; and

(c) Greater biologic and hydrologic functions will be achieved.

~~(78) Surface Water Management. Surface water management or flood control alterations shall not be considered enhancement unless other functions are simultaneously improved.~~

~~(89) Daylighting. Day-lighting a stream is encouraged when redeveloping. The Development Services Director may modify the requirements pertaining to aquatic areas and their buffers, when locating or day-lighting a stream.~~

~~(8) Monitoring and Maintenance. Mitigation sites shall be monitored and maintain consistent with WMC 21.24.130.~~